Supreme Court, U.S.
FILED
JAN 28 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

NO. _____

JEREMY MYER,

Petitioner,

v.

PACIFIC FEDERAL SAVINGS
AND LOAN ASSOCIATION,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE STATE OF CALIFORNIA SUPREME COURT (AND TO THE RESPECTIVE LOWER CALIFORNIA COURTS)

JEREMY MYER
16783 Beach Boulevard
Huntington Beach, CA 92647
714/841-8104
Petitioner, In Pro Se

I

QUESTIONS PRESENTED FOR REVIEW

1. Since the unlawful detainer action is a summary proceeding and the Respondent, who availed himself of the statute had to bring himself clearly within its terms, whether Petitioner's rights and due process were violated by instituting and maintaining the unlawful detainer action against him and his household when any one or several of the following violations of the unlawful detainer process and action had occurred:

A. There was no perfection of title pre-requisite to the Three-Day Notice to Quit.

B. The Three-Day Notice to Quit was insufficient as to service of process.

C. The summonses and complaints were insufficient as to service of process.

D. There was no conventional land-

lord/tenant relationship.

E. The unlawful detainer action was without jurisdiction and was in excess of jurisdiction to proceed or remain at bar.

F. Jurisdiction to proceed was not established once it had been challenged.

G. Title to the subject property was the ultimate issue and this is beyond the jurisdiction of the Municipal Court in which the action was instituted.

H. Petitioner claims ownership to the subject property by purchase at the foreclosure sale, had filed a prior action in the Superior Court to press his claims, and such action is still at bar.

I. Petitioner had filed a lis pendens in the Superior Court against the subject property prior to the unlawful detainer action.

J. Petitioner asserted fraud in his prior suit against Respondent (and

others), yet the unlawful detainer action was not abated when this was made known in it.

K. The Municipal Court found Petitioner and his family in default on its own motions, yet the court records and files in the matter clearly show that there was no default at any time.

L. Due to Petitioner's prior action on the purchase and ownership issue, Respondent's unlawful detainer action was a vexatious, harassing, and unwarranted multiplicity of suit.

2. Whether, with the foregoing violations, the non-issuance of a writ of mandate/prohibition to stop the unlawful detainer action upon Petitioner's petition was a violation of Petitioner's rights and due process and/or contributed to violations of same.

3. Whether, with the foregoing viola-

tions, the non-issuance of an order abating or staying the unlawful detainer proceedings upon Petitioner's request was a violation of Petitioner's rights and due process and/or contributed to same.

4. Whether, for a court of record and/or as Petitioner petitioned in accordance with court rules, the denial of Petitioner's request for a settled statement was a violation of Petitioner's rights and due process.

5. Whether, by ignoring the clear and unambiguous case law under the doctrine of stare decisis as applied to the unlawful detainer action and related causes, Petitioner's rights and due process were violated.

6. Whether, due to all of the foregoing, such that there never was any valid jurisdiction for the unlawful detainer to proceed or remain at bar, the following

items further violated Petitioner's rights and due process, and/or denied him his full rights to appellate review:

A. The writ of execution used to oust Petitioner and his family from the subject property.

B. The denials of Petitioner's petitions for rehearing/certification to the Court of Appeal, Petitioner's motions to have the subject property returned to him and his family, Petitioner's petition for writ of certiorari to the State Court of Appeal, Petitioner's petition for review to the State Supreme Court, and related items.

TABLE OF CONTENTS

Section	Title	Page
I.	QUESTIONS PRESENTED	Prefix-1
II.	TABLE OF CONTENTS	(i)
III.	TABLE OF AUTHORITIES	(ii)
IV.	OFFICIAL AND UNOFFICIAL REPORTS OF OPINIONS DELIVERED IN THE COURTS BELOW	(xx)
V.	JURISDICTION	1
VI.	CONSTITUTIONAL PROVISIONS AND STATUTES	2
VII.	STATEMENT OF THE CASE	7
VIII.	REASONS FOR GRANTING THE WRIT	35
	APPENDIX	1
	SUPPLEMENTAL APPENDIX:	
	Part 1	1
	Part 2	97
	Part 3	179
	Part 4	273

TABLE OF AUTHORITIES

Cases:	Page
Abelleira v. District Court of Appeal (1941) 17 Cal.2d 280, 288; 109 P.2d 942; 132 A.L.R. 715	104,323 156,201 204,239 266
17 Cal.2d 280, 291	292-293 294 352-353
citing: Cambra v. Justice's Court 4 Cal.2d 445; 49 P.2d 1121	323
Asuncion v. Superior Court (1980) 108 Cal.App.3d 141, 144; 166 Cal.Rptr. 306	326
108 Cal App 3d 141, 146	47,63,87 103,156 194,198 200-201 204,221 222 254-255 266 300-301 322-323

NOTE: All citations in this Table of Authorities are to page numbers in the Supplemental Appendix, Parts 1 - 4.

Auto Equity Sales, Inc. v. Superior Court (1962)
57 Cal.2d 450, 454;
20 Cal.Rptr. 321; 369 P.2d 937 297, 302, 349-350
57 Cal.2d 450, 455 293, 297-298, 350-351

Baugh v. Consumers Associates, Ltd. (1966)
241 Cal.App.2d 672, 673;
50 Cal.Rptr. 822 146
241 Cal.App.2d 672, 675; 31,82,89, 141,146, 207,239, 251,300, 332,333

BLACK'S LAW DICTIONARY (1979)
Fifth Edition,

definition,
lack of jurisdiction 34, 251-252

at page 89, definition,
special appearance 327

citing:

In re Rowe's Estate
66 Cal.App.2d 594;
152 P.2d 765,770 34, 251-252

Insurance Co. of North America v. Kunin
175 Neb. 260;
121 N.W.2d 372, 375, 376 327

BOUVIER'S LAW DICTIONARY (1914)
Third Revision
(being the Eighth Edition)
Reprint Edition 1984,
Vol 1, 212-213 327-328

citing:

Citizens Savings & Trust Co.
v. R. Co.
205 U.S. 46; 27 S.Ct. 425;
51 L.Ed. 703 328

Commercial Mut. Accident Co.
v. Davis
213 U.S. 245; 29 S.Ct. 445;
53 L.Ed. 782 327

Courtney v. Pradt
196 U.S. 89; 25 S.Ct. 208;
49 L.Ed. 398 328

Lathrop-Shea & Henwood Co.
v. Const. Co
150 Fed. 666 327-328

McGillin v. Claflin
52 Fed. 657 327

Powers v. Ry. Co.
169 U.S. 92; 18 S.Ct. 264;
42 L.Ed. 673 328

Remington v. Ry. Co.
198 U.S. 95; 25 S.Ct. 577;
49 L.Ed. 959 328

Brady v. Superior Court (1962)
200 Cal.App.2d 69, 74;
19 Cal.Rptr.242 293

Burns v. Municipal Court
195 Cal.App.2d 599 271
328-329

California Union Ins. Co.
v. Trinity River Land Co. (1980)
105 Cal.App.3d 104, 108-109;
163 Cal.Rptr. 802 106-107
210-211
267
340-341

citing:

Colvig v. RKO General, Inc.
(1965) 232 Cal.App.2d 56, 70;
42 Cal.Rptr. 473 341

Hagan v. Fairfield (1961)
194 Cal.App.2d 240, 246-247;
16 Cal.Rptr. 14 340-341

Kirman v. Borzage (1949)
89 Cal.App.2d 898, 903;
150 P.2d 3 340-341

Williams v. State of
California (1976)
62 Cal.App.3d 960, 964;
133 Cal.Rptr. 539 341

Wulfjen v. Dolton (1944)
24 Cal.2d 891; 151 P.2d 840 341

Cook v. Moffat & Curtis,
46 U.S. 295; 12 L.Ed. 159, 161 61
260,266
46 U.S. 295,308; 12 L.Ed. 159, 165 9-10
246

Cook v. Mozer (1923)
140 N.E. 590, 592;
108 Ohio St. 30 — 49,91, 105,195, 199,202, 256, 324-325

Diamond v. Bland (1973)
33 Cal.App.3d 385, 388-389;
109 Cal.Rptr. 248 — 298

Duke v. U.S. (1974)
382 F.Supp. 362, Affid. in part
539 F.2d 220 — 271

Estate of Bodger (1954)
128 Cal.App.2d 710, 714;
276 P.2d 83 — 302-303, 353

Ex parte Jentzsch (1896)
44 Pac.Rptr. 803, 805 — 228-229, 355

Fredericksen v. McCosker (1956)
143 Cal.App.2d 114, 117-118;
299 P.2d 908 — 37,62-63, 88,142, 207, 252-253, 300,337

Green v. Superior Court (1974)
10 Cal.3d 616, 633; — 267-268
10 Cal.3d 616, 636;
111 Cal.Rptr. 704; 517 P.2d 1168 — 108, 110-111, 202-203, 268-269, 344-345

citing:

Abstract Investment Co. v. Hutchinson (1962) 204 Cal.App.2d 242, 249; 22 Cal.Rptr. 309 — 110-111, 202-203, 268-269, 344

Hanrahan v. Superior Court (1947) 81 Cal.App.2d 432, 435; 184 P.2d 157 — 107-108, 267,346

citing:

1 Cal.Jur. 23 § 4 (1947) — 346

CCP §§ 430, 433 (1947) — 346

Fresno Planing Mill Co. v. Manning, 20 Cal.App. 766, 769; 130 P. 196 — 346

Mears v. Jeffry 80 Cal.App.2d 610; 182 P.2d 294 — 346

Horton-Howard v. Payton (1919) 44 Cal.App.108, 112; 186 P. 167 — 61,90, 208,239, 261,331

Hurtado v. Superior Court (1974) 11 Cal.3d 574, 579; 114 Cal.Rptr. 106; 522 P.2d 666 — 87,343, 265

In re Perez (1966)
239 Cal.App.2d 466, 469;
48 Cal.Rptr. 809 295-296

Judson v. Superior Court
of Los Angeles County
129 P.2d 361, 362; 21 Cal.2d 11 270,328

Keller v. Superior Court (1950)
100 Cal.App.2d 231, 234;
223 P.2d 309 230,348

Kelly v. Trans Globe
Travel Bureau Inc. (1976)
60 Cal.App.3d 196, 206;
131 Cal.Rptr. 488 345

citing:

Simmons v. Superior Court
(1950) 96 Cal.App.2d 119;
214 P.2d 844; 19 A.L.R.2d 288 345

Klein v. Loeffler (1929)
96 Cal.App. 383, 385; 274 P.373 36-37
62,88
142-143
207,252
300,337

Kwok v. Bergren (1982)
130 Cal.App.3d 596, 599-600;
181 Cal.Rptr. 795 146-147
130 Cal.App.3d 596, 600; 61-62,89
207-208
239,261
332

citing:

CCP § 1161 147

CCP § 1162 147

Lamey v. Masciotra (1969)
372 Cal.App.2d 709, 713;
78 Cal.Rptr. 344 147

Maine v. Thiboutot (1980)
100 S.Ct. 2502 271

Manning v. Ketcham (1932)
58 F.2d 948, 949 18,87-88
149,249

Marbury v. Madison
5 U.S. 137 59,60
260

Marvell, et al. v. Pizzeria (1984)
202 Cal.Rptr. 818, 822;
155 Cal.App.3d Supp 1 337-338
202 Cal.Rptr. 818, 823 338
202 Cal.Rptr. 818, 824 338-339
202 Cal.Rptr. 818, 825 338-339

citing:

Baugh v. Consumers
Associates, Ltd. (1966)
241 Cal.App.2d 672, 674;
50 Cal.Rptr. 822 337-338

Francis v. West Virginia
Oil Co. (1917)
174 Cal. 168, 170;
162 P. 394 338

Goetz v. Hanks (1968)
261 Cal.App.2d 615;
68 Cal.Rptr. 150 339

Middleton v. Low (1866)
30 Cal. 596 63,87
261
30 Cal. 596, 607 149

Miranda v. Arizona, (1966)
384 U.S. 436, 479-480;
86 S.Ct. 1602; 16 L.Ed. 694 270
355-356
384 U.S. 436, 491 10,59
246
320,366

citing:

Olmstead v. United States
(1928) 277 U.S. 438, 485 270
355-356

Owens v. City of Independence
100 S.Ct. 1398 (1980) 63,87
271

People ex rel Happell v. Sischo
(1943) 23 Cal.2d 478,491;
144 P.2d 785,791 10,246

People v. Superior Court (Ross)
(1975) 49 Cal.App.3d 632, 641;
122 Cal.Rptr. 609 343

citing:

Hays v. Superior Court (1940)
16 Cal.2d 260; 105 P.2d 975 343

Simmons v. Superior Court
96 Cal.App.2d 119;
214 P.2d 844; 19 A.L.R.2d 288 343

State Farm etc.Ins. Co.
v. Superior Court
47 Cal.2d 428; 304 P.2d 13 343

Portnoy v. Superior Court (1942)
20 Cal.2d 375, 377; 125 P.2d 487 291,352

Sidebotham v. Superior Ct. In and
For City and County of S. Francisco
(1958) 161 Cal.App.2d 624
326 P.2d 890; 230,348

Simmons v. Superior Court (1950)
96 Cal.App.2d 119, 124-125;
214 P.2d 844 109
268
341-342

96 Cal App 2d 119, 130 108,268
346

State v. Washington Dredging &
Improvement Co. (1906)
86 P. 936, 938; 43 Wash. 508 48,90-91
195,198
255-256
323-324

citing:

Washington Dredging &
Improvement Co. v Kinnear
et al. (1901)
64 P. 522, 522;
24 Wash. 405 48,90-91
323-324

Stevens v. Superior Court
(1958) 160 Cal.App.2d 264, 268;
325 P.2d 204 229
347-348

Sweet v. Markwart (1953)
115 Cal.App.2d 735, 742, 743;
252 P.2d 751 229,348

Uridias v. Morrill (1863)
22 Cal. 473, 478 228

U.S. v. Nixon
(General Reference) 18,249

Villanazul v. Los Angeles (1951)
37 Cal.2d 718; 235 P.2d 16 228

Washington Dredging & Improvement Co. v. Kinnear et al. (1901)
64 P. 522 104-105
202,266

Wilson v. Walters (1941)
19 Cal.2d 111; 119 P.2d 340 228

Constitutional Provisions:

California State Constitution:

General Reference 4,9,79
307-309
317,340
364

Article I, Section 1 60,237

Article I, Section 7(a) 60,237
368

Article I, Section 7(b) 60,237
369

Article I, Section 9 370

Article I, Section 13 241,370

Article I, Section 24 60

Article III, Section 1 60,242
371

Article XX, Section 3 241,370

United States Constitution:

General Reference 4,9,79
307-309
317,340
364

Preamble 61,261

Article I, Section 10,
clause 1 242,370

Article VI, Clause 2 60,242
370

Amendment IV, Section 1 243,370

Amendment V 368-369

Amendment XIV 308
368-369

Statutes:

California Business and Professions Code:

General Reference 317-318, 364

Section 6067 370

California Civil Code (also cited as "CC"):

Section 13 295

California Code of Civil Procedure (also cited as "CCP"):

Section 4 155

Section 16 295

Section 369 58,134, 135, 153-154, 209,259, 278,294, 340

Section 371 58,134,135, 153-154, 209,259, 278,294, 340

Section 409 24,39,46, 100,250

Section 415.10	71,130 277,294 333
Section 415.20	57,71 128,130 152 277,294 333
Section 415.20(b)	34,35,36 140
Section 418.10(a)	43,48,58 74,92-93 253,255 265
Section 430.10(a)	97,99,103 201,266 281
Section 430.10(c)	97,99,105 266,281
Section 474	141
Section 597	97,99,105 266,281
Section 663	53,138 258
Section 663a	53,138 258
Section 904.1 (a) (3) and (4)	286,351
Section 1068	290-291 351

Section 1069	273,291 351-352
Section 1085	66,82,83 86,94,95 262,263 264,265 280,342
Section 1086	66,82,83 85,86,94 95,262 263,264 265,280 342-343
Section 1102	66,82,84 86,94,95 262,263 264,265 280,342
Section 1103	66,82,84 85,86,94 95,262 263,264 265 280,342
Section 1107	66,82,84 86,94 262 263-264
Section 1161	142
Section 1161a	144-145 148,219 275,293 330,332

Section 1162 71,129
145,148
275,294
331-332

Section 1167 57,140
333

Section 1167.3 58,71,92
127,151
265

Section 1167.4 43,58,71
74,92,93
127,128
132,151
153,253
265

Section 1177 48,56,92
255,265

California Evidence Code
(also cited as "EV"):

Sections 450 - 453 271

Other:

American Jurisprudence
(also cited as A.Jur.):

General Reference 318,364

Volume 7, 2d Edition,
Sections 2, 4, and 5,
ATTORNEYS AT LAW 370
Sections 2, and 5 220

California Jurisprudence
(also cited as Cal.Jur.):

General Reference 318,364

Volume 7, 3rd Edition
Section 45,
ATTORNEYS AT LAW 370

Volume 52, 3d Edition
(52 Cal.Jur.3d)
Section 173 17-18
248-249
299,355

citing:

Wirin v. Parker
48 Cal.2d 890;
313 P.2d 844 17
249
299,355

63 Am.Jur.2d,
Section 277 17-18
249
299,355

California Rules of Court
(also cited as
"Cal Rules of Ct" and "CRC):

Rule 28 310,359

Rule 28(b) [new] 316

Rule 29 310,359

Rule 29(a)(1) 317-320
364-366

Rule 29(a)(2) 319-320
366

Rule 56 273,290

Rule 63 235

Rule 107 235

Rule 107(b)(2) 287

Rule 121(a) 158

Rule 125(a) 159

Rule 127(a) 163,164
226-227

Declaration of Independence:

General Reference 340

IV

OFFICIAL AND UNOFFICIAL
REPORTS OF OPINIONS
DELIVERED IN THE COURTS BELOW

(All Unpublished)

1. Pacific Federal Savings & Loan Association v. John Ray Woelke, and Does 1-10, inclusive, Case No. A 73032. (Municipal Court of California, County of Orange, North Orange County Judicial District).

2. Jeremy Myer v. The Municipal Court of the North Orange County Judicial District, (Pacific Federal Savings & Loan Association, Real Party In Interest), Case No. 42-14-46. (Superior Court of California, County of Orange).

3. Pacific Federal Savings & Loan Association v. John Ray Woelke, and Does 1-10, inclusive; Jeremy Myer v. Pacific Federal Savings & Loan Association Case No. AP-4726. (Appellate Department, Superior Court of California, County of Orange).

4. Jeremy Myer v. The Municipal Court of the North Orange County Judicial District, The Superior Court for the County of Orange, Appellate Department of the Superior Court for the County of Orange, (Pacific Federal Savings & Loan Association, Real Party In Interest), Case No. G002742. (Court of Appeal of California, Fourth Appellate District, Division Three).

5. Jeremy Myer v. The Municipal Court of the North Orange County Judicial District, The Superior Court for the County of Orange, Appellate Department of the Superior Court for the County of Orange, The Court of Appeal for the Fourth Appellate District (Division III (Pacific Federal Savings & Loan Association, Real Party In Interest), Case No. LA 32084. (The Supreme Court of the State of California).

6. Jeremy Myer v. The Superior Court for the County of Orange (Pacific Federal Savings & Loan Association, Real Party In Interest), Case No. G003059. (Court of Appeal of California, Fourth Appellate District, Division Three).

7. Jeremy Myer v. The Superior Court for the County of Orange (Pacific Federal Savings & Loan Association, Real Party In Interest), Case No. G003059. (The Supreme Court of the State of California).

V

JURISDICTION

The date of the denial of Petitioner's petition for review by the State of California Supreme Court from which this Petition for Certiorari is taken is October 30, 1985. A petition for rehearing to grant review was not accepted for filing by the Clerk of the California State Supreme Court since he determined that it was not allowed by the Rules of Court. This Petition for Certiorari was filed within ninety (90) days of the denial by the California State Supreme Court. The jurisdiction of this Court is invoked under 28 U.S.C. §1257(3).

VI

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

United States Constitution, Preamble

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity,...promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

United States Constitution, Article I, Section 10

No State shall...pass any...law impairing the obligation of contracts, or grant any title of nobility.

United States Constitution, Article VI, Clause 2

This Constitution, and the laws of

the United States which shall be made in pursuance thereof,...shall be the supreme law of the land; and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

United States Constitution, Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable...seizures, shall not be violated,....

United States Constitution, Amendment V

Nor shall any person...be deprived of...property without due process of law.

United States Constitution, Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

United States Constitution, Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

United States Constitution, Amendment XIV

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens...; nor shall any State deprive any person of...property, without due process of law; nor deny to any person...the equal protection of the laws.

See the Appendix for State Constitutional Provisions and Statutes Involved, for the following citations:

California Constitution:

Preamble;

Article I, Sections 1, 7 (a), 7 (b), 9, 13, 24, and 26;

Article III, Sections 1 and 3;

Article VI, Sections 1, 9, and 14;

Article XX, Section 3

California Business and Professions Code,

Section 6067

California Civil Code,

Section 13

California Code of Civil Procedure,

Sections 4, 16, 369, 371, 409, 415.20(b), 416.90, 418.10, 430.10, 474, 597, 663,

663a, 904.1, 1013a, 1068, 1069, 1085, 1086, 1102, 1103, 1107, 1161, 1161a, 1162, 1166, 1167, 1167.3, 1167.4, 1169, 1177

California Evidence Code,

Sections 451, 452, 453

California Rules of Court

Sections 56, 63(a), 63(b), 107, 121(a), 125(a), 127(a)

Other:

American Jurisprudence,

Volume 7, 2d Edition,

Sections 2, 4, and 5

California Jurisprudence

Volume 7, 3d Edition,

Section 45

VII

STATEMENT OF THE CASE

This Petition for Writ of Certiorari was instituted by Jeremy Myer (hereinafter "Myer") against Pacific Federal Savings and Loan Association (hereinafter "Pacific") for violations of the State's Unlawful Detainer statute, the State, and the United States Constitutions, as well as violations by the courts in allowing said violations to stand and, therefore, sanctioning them.

This Petition for Writ of Certiorari seeks to upset the California State Supreme Court's denial of Myer's petition for review and also all lower courts' denials and decisions against Myer (and members of his family).

Myer has no further avenue of review available in the State courts and petitions this Court due to violations of rights and due process, including the jurisdictional requirements and the procedures of the summary proceeding of the unlawful detainer action against him and his family. Myer challenged and objected to such violations and the jurisdiction to proceed in his pleadings (including his motions to quash in the Municipal Court) from the inception of the matter (as established in the records and files of all of the tribunals), including invalidities of the Three-Day Notice to Quit since there was no pre-requisite perfection of title by Pacific, insufficiencies of services of process of the Three-Day Notice to Quit and the Summonses and Complaints, and other material deficiencies, and fraud.

The violations of rights, due process, and so forth include the right and expectation of Myer to be able to present matters to the courts and on the courtroom floor in accordance with the law and to have decisions rendered accordingly and uniformly, including their being in compliance with the professional oaths of the 'legal profession' and the judges. Pacific's own submission with the application for the writ of execution in the Municipal Court proved that there was no prior, pre-requisite perfection of title to the Three-Day Notice to Quit --- Pacific's attempted perfection of title occurred eight days after the date of the Three-Day Notice to Quit and was discovered by Myer in the Municipal Court records after his/family's 'eviction': there never was any fundamental jurisdiction for the summary proceeding to be at

bar in the Municipal Court where it was instituted for this reason alone, notwithstanding that the ultimate issue is one of title which is also beyond said court's jurisdiction.

Myer was occupant of the subject property with his family before, during, and after the Trustee's Sale, and he purchased the property at said sale on October 28, 1983, in full and complete accordance with the NOTICE OF TRUSTEE'S SALE dated September 27, 1983, in which notice Pacific is the beneficiary.

Myer sent his letter dated October 28, 1983, to the auctioneer and agent of the beneficiary (Pacific) confirming his purchase and possession of the property.

Myer sent his letter dated October 31, 1983, to the beneficiary (Pacific) also confirming his purchase, with a copy of his October 28th letter attached also.

Myer filed suit in the California Orange County Superior Court on November 30, 1983, to perfect his claim, case no. 41-72-38, and Pacific is one of the defendants therein.

On December 26, 1983, Pacific's Summons and Complaint - Unlawful Detainer was found in Myer's mailbox. It had not been mailed. Said action did not refer to Myer and/or any member of his household, even after his prior letters noticing his purchase and possession of the property: the caption of the case was Pacific Federal Savings & Loan Association, Plaintiff, v. John Ray

Woelke, and Does 1-10, inclusive. (Case no. A 73032, Municipal Court, North Orange County Judicial District, State of California.)

On December 29, 1983, Myer responded in Propria Persona with his Notice of Special Continuing Appearance, Notice of Motion and Motion to Quash Service of Summons for Lack of Jurisdiction, Points and Authorities, Declaration, Judicial Notice and Notice to the Court and to Plaintiff's Attorney, and Verification. For the sake of brevity of this Petition, extracts of such documents are included in the Supplemental Appendix filed herewith so that it can be clearly seen that Myer appeared 'specially' and not 'generally', challenged the Municipal Court's jurisdiction, Judicially Noticed the court as to his ownership, purchase

and prior suit, the U.S. and California Constitutions and other appropriate items including "Plaintiff's 'perfection of title' is a fraud". Myer's Motion to Quash was denied on January 6, 1984 (Notice of Order dated 1-9-84 in the Appendix attached hereto).

(It is noted that renditions of court decisions in the Appendix show proper spellings and standard form for identification, even though the actual notice(s) from the court(s) may have misspellings, be on a different form, show a wrong court or case number, and/or be on a Notice of Order or Civil Minute Sheet, and/or notice may have been given by the opposing attorney.)

On January 13, 1984, Myer caused to be served and filed his Notice of Hear-

ing, Judicial Notice, Notice to the Court of Error; Notice to Plaintiff's Attorney; Notice of Possible Fraud; Notice of Objections; Demand for Quash of Service of Summons and Complaint for Lack of Jurisdiction, all under Special Appearance. Again, for the sake of brevity of this Petition, extracts of such documents are included in the Supplemental Appendix so that it can be clearly seen that Myer objected and raised rights and due process issues timely, including appropriate case law supportive of his position. On January 20, 1984, Myer's demand was denied as a 'motion' as per the court's Civil Minute Sheet dated January 20, 1984, and Pacific's Attorney's NOTICE OF RULING dated January 23, 1984.

In response to a 'new' Summons and Complaint from Pacific, Myer caused to be served and filed his Notice of Motion and Motion to Quash Service of Summons and Complaint for Lack of Jurisdiction on January 24, 1984, and extracts of these are part of the Supplemental Appendix herewith. The Municipal Court's NOTICE OF ORDER dated 1-25-84 shows that Myer's motion was "DISMISSED ON COURT'S OWN MOTION": Myer's motion was never heard. Myer found out about this from the court clerk on January 27, 1984, the scheduled hearing date, some time after he waited for the case to come up. Myer immediately filed with the court his Judicial Notice, Notice of Objections, Violations of Due Process & Rights which is typed in the Supplemental Appendix herewith.

On January 31, 1984, Myer filed and caused to be served in the California Orange County Superior Court his Emergency Petition for Writ of Mandate/Prohibition/Judicial Review/Justice, Ex Parte, case no. 42-14-46. This Emergency Petition included a complete, complementary EXHIBITS package showing what had transpired in the lower court by virtue of its being extracts and copies of Myer's pleadings in said court: thus the lack of jurisdiction, insufficiencies, and related issues were presented in this Emergency Petition. Appropriate extracts of the Emergency Petition have been included in the Supplemental Appendix herewith after the (next) February 10th filing. (The EXHIBITS have not been extracted (again) since appropriate extracts for these are the previous pleadings extracts). The Emergency

Petition was not granted, but it was subsequently scheduled for a formal hearing on March 12, 1984.

On February 10, 1984, Myer caused to be served and filed in the Municipal Court (case no. A 73032) his Notice of Motion and Motion to Vacate Judgment; Demand for Findings of Fact and Conclusions of Law; Points and Authorities; Declaration. Extracts show the challenge to the decision: "that an incorrect and erroneous legal basis for the decision, not consistent with and not supported by the facts, has been rendered." Also, the previously raised challenges, insufficiencies, and improprieties were reiterated, and appropriate extracts appear in the Supplemental Appendix herewith (in front of the January 31st Emergency Petition). The court's NOTICE OF ORDER

dated 2-15-84 shows that Myer's "MOTION TO VACATE JUDGMENT AND FOR FINDINGS DISMISSED ON COURT'S OWN MOTION" occurred on the same day as the filing (February 10, 1984) and without any hearing.

On February 21, 1984, Myer caused to be served his Petition for Writ of Mandate/Prohibition/Judicial Review/Justice set for hearing in the California Orange County Superior Court on March 12, 1984, case no. 42-14-46. This was totally based on the prior Emergency Petition submission. Appropriate extracts appear in the Supplemental Appendix herewith.

On March 12, 1984, the Petition for Writ of Mandate, etc., was heard, and on April 2, 1984, the 'Order Granting Writ of Mandate/Prohibition' was issued by the Superior Court Judge DENYING the Writ but

issuing a preliminary injunction based on Myer's 'related' purchase case. Myer fulfilled the terms of the preliminary injunction, but had to take the next step, as follows.

On June 1, 1984, having been denied the Writ of Mandate/Prohibition (the petition for which had brought forward the insufficiencies of the lower court's jurisdiction, etc., including the rights and due process violations), Myer caused to be served and filed in the California Orange County Superior Court, case no. 42-14-46, his Notice of Motion for Order for Abatement of Municipal Court Proceedings, or, in the Alternative, Stay of Municipal Court Proceedings, Memorandum of Points and Authorities, Declaration, and Verification. Extracts are included in the Supplemental Appendix herewith

which show the basis for the attempted abatement/stay as no jurisdiction and Pacific having caused multiplicity of suit (since Myer had a prior and related suit served and filed).

On June 7, 1984, in conjunction with the attempted Abatement/Stay, Myer caused to be served and, based on local court rule, lodged (could not file at the time) his Purgatory Oath and Declaration of Jeremy Myer for Clarification of Record with Memorandum of Points and Authorities in Support [thereof]. Appropriate extracts appear in the Supplemental Appendix herewith which show the objections to the jurisdiction and previously stated and documented insufficiencies of the unlawful detainer proceedings with appropriate references to the previous pleadings, including the January 27th JUDICIAL

NOTICE, NOTICE OF OBJECTIONS, and VIOLATIONS OF DUE PROCESS & RIGHTS. [Myer's position and his raised issues were essentially uncontested by Pacific throughout.]

The Abatement/Stay was heard on June 28, 1984, and on August 17, 1984, the California Orange County Superior Court issued its Minute Order (re-typed in the Appendix attached hereto) denying Myer's "Motion for Order for Abatement of Municipal Court Proceeding or, in the alternative, Stay of Proceedings", and taking judicial notice of the 'related' action (case no. 41-72-38). (It is noted herewith that Myer's purchase was fully admitted to via the defendants' demurrers in said 'related' case: the demurrers admitted his purchase in strict accordance with the Notice of Trustee's Sale.

However, Myer contends that such case is one of title, outside the jurisdiction of the Municipal Court.) The Minute Order is prima facie evidence that Myer's position, the law, and the facts in the unlawful detainer action were not considered by the court. Hence, it also decided on an erroneous legal basis.

On August 24, 1984, Myer received from Pacific's Attorney a copy of Pacific's REQUEST TO ENTER DEFAULT dated August 22, 1984, with the following attachments: "CORRECTED" AMENDMENT TO COMPLAINT undated; REQUEST FOR DISMISSAL "Entire action as to JOHN RAY WOELKE only, dated June 20, 1984, (Myer believes not filed previously); and Proof of Service.

On or about August 30, 1984, Myer received the MARSHAL'S OFFICE NOTICE TO

VACATE dated August 29, 1984. Myer and his household vacated within time.

On September 14, 1984, after the 'eviction', Myer went to the Municipal Court and found the following items in the court's case file of which he had not received copies previously: ORDER FOR WRIT OF POSSESSION BY CLERK - UNLAWFUL DETAINER filed on "AUG 24 1984"; NOTICE OF DEFAULT ENTRY dated "8-22-84"; Pacific's APPLICATION FOR IMMEDIATE WRIT OF POSSESSION BY CLERK UNLAWFUL DETAINER dated and filed on August 24, 1984, with the following attachments: a copy of the Three-Day Notice to Quit dated November 21, 1983, (received by Myer previously, and appropriately attacked as insufficient,) WITH Pacific's attempted (and Myer contends fraudulent) 'perfection of title' dated November 29, 1983, and

"RECORDED IN OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA" at '3:20 PM' "DEC 1 '83". These appear as appropriate extracts in the Appendix herewith.

THUS, by Pacific's own filing, the Three-Day Notice to Quit was dated eight (8) days BEFORE its attempted 'perfection of title' and, since the Municipal Court had acted on its 'OWN MOTION' previously, it should have reversed accordingly. Furthermore, this is prima facie evidence of the violations of the professional oaths, duties, and responsibilities. (Myer, already 'evicted', presented this evidence on appeal, but to no avail, as the extracts of his appeal show in the Supplemental Appendix attached herewith.)

Also on September 14, 1984, Myer found in the Municipal Court's file (not

previously received by him) the DECLARATION OF LINDA S. NUNEZ RE LOST OR MISPLACED ORIGINAL SUMMONS, APPLICATION TO USE COPY OF ORIGINAL SUMMONS IN PLACE OF ORIGINAL, ORDER THEREON dated August 21, 1984, filed on August 22, 1984, and so ordered by the Judge on "8-24-84". Attached to this were other documents clearly not filed until August 24, 1984, (and Myer attacked these as fraudulent, to say the least, in his Appeal to the Appellate Department of the Superior Court case no. AP-4726 as per the extracts in Part 2 of the Supplemental Appendix herewith.)

On September 19, 1984, Myer filed his NOTICE OF APPEAL of the same date in the Municipal Court (see Part 2 of the Supplemental Appendix herewith).

On September 28, 1984, Myer fi
his APPELLANT'S DESIGNATION OF RECO
and APPELLANT'S NOTICE OF SETTLED STA
MENT in the Municipal Court, both
accordance with the California Rules
Court (CRC hereafter), with extra
appearing in Part 2 of the Supplemen
Appendix ("SA2" hereafter) herewith.

On October 17, 1984, Myer caused
be served and filed his APPELLAN
STATEMENT OF ISSUES TO BE RAISED ON
PEAL AND PROPOSED SETTLED STATEMENT w
DECLARATION. Appropriate extracts app
in SA2 showing seventeen (17) items (p
sub-items) of the lack of jurisdicti
insufficiencies, and so forth, which
late to the raised issues in the es
lished records and files in both
Municipal Court (case no. A 73032)
the Superior Court (case no. 42-14-46

On October 26, 1984, Myer caused to be served and filed his APPELLANT'S CLARIFICATION OF DESIGNATION OF RECORDS (not extracted for the Petition).

On October 31, 1984, Myer received the Municipal Court's NOTICE OF HEARING SETTLED STATEMENT dated and filed on October 30, 1984, and extracted in the Appendix.

On November 29, 1984, the date of the hearing on the SETTLED STATEMENT, the judge, in the presence of Pacific's Attorney, refused to 'settle' it over and above Myer's objections (and Myer brought this into the appeal process via his "APPELLANT'S NOTICE OF MOTION TO HAVE HIS PROPOSED SETTLED STATEMENT AS FILED IN THE MUNICIPAL COURT...FORMERLY ACCEPTED BY THE [APPELLATE DEPARTMENT] COURT..."

as per the extract in Part 3 of t
Supplemental Appendix (SA3 hereafte
herewith.

On January 17, 1985, Myer caused
be served and filed his APPELLANT'S OPE
ING BRIEF IN THE APPELLATE DEPARTMENT
the Orange County Superior Court, ca
no. AP-4726 (changed from former n
AP-4482). In it, Myer re-raised all
the issues and challenges as can be se
from the extracts in SA3.

On February 19, 1985, Myer caused
be served and filed his APPELLANT'S REP
BRIEF to the previously received RESPON
ENT'S BRIEF, sustaining his earlier cha
lenges to jurisdiction and pointing o
the insufficiencies in the matter su
that the lower court's proceedings cou
not have properly remained at bar, l

alone find Myer and his family in default. Appropriate extracts in SA3 show this.

On March 18, 1985, Myer filed (caused to be served on March 17th) as part of case no. AP-4726 his APPELLANT'S NOTICE OF MOTION TO HAVE HIS PROPOSED SETTLED STATEMENT AS FILED IN THE MUNICIPAL COURT (EXHIBIT "X" ATTACHED) FORMERLY ACCEPTED BY THE COURT AS IF CERTIFIED OR, IN THE ALTERNATIVE, TO ORDER THE JUDGE OF THE MUNICIPAL COURT TO CERTIFY IT, OR IN THE SECOND ALTERNATIVE, ORDER THAT A STIPULATED RECORD BE PROVIDED; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF. As the extracts show in SA3, such carried into the appeal process Myer's Proposed Settled Statement with appropriate support showing that such Statement should have been 'settled'

properly, and according to courts of record.

Also on March 18, 1985, (and also served on March 17th), Myer's APPELLANT'S NOTICE OF MOTION TO HAVE THE SUBJECT PROPERTY IMMEDIATELY RETURNED TO HIM AND HIS FAMILY FOR THEIR QUIET AND PEACEFUL ENJOYMENT; AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF was filed as part of the Appellate Department case no. AP-4726. Support for this is found in the files and records in the matter, including APPELLANT'S OPENING BRIEF. (Extracts are included in SA3.)

After the court date of March 28, 1985, the Appellate Department issued its JUDGMENT and ORDER OF THE SUPERIOR COURT on April 1, 1985, in this case no. AP-4726 sustaining the Municipal Court's

decisions and denying Myer's motions. Said JUDGMENT and ORDER appear appropriately in the Appendix herewith.

Myer filed his APPELLANT'S PETITION FOR REHEARING OR CERTIFICATION TO THE COURT OF APPEAL in this case no. AP-4726 on April 16, 1985, (served the day before) re-raising the appropriate issues for the petitioned rehearing as the extracts in SA3 show.

On April 29, 1985, the Appellate Department issued its MINUTE ORDER (see the Appendix herewith) denying both rehearing and certification.

On May 13, 1985, Myer filed IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION III, his PETITION FOR REVIEW (CERTIORARI)

case no. G002742 asking for review of al
of the lower tribunals decisions, judg
ments, and proceedings and re-raising al
of the jurisdictional issues and insuffi
ciencies as the extracts in the SUPPLE
MENTAL APPENDIX, Part 4 ("SA4" hereafter
show. The Petition was well EXHIBITed.

The Court of Appeal denied Myer's petition three days later on May 16th (see the Appendix herewith).

On June 18, 1985, Myer lodged wit
the Court of Appeal (since it was no
accepted for filing) his PETITIONER'
NOTICE OF OBJECTIONS TO COURT'S DENIAL O
PETITIONER'S PETITION FOR WRIT OF REVIEW
Copies were served the day before o
Pacific and the lower tribunals, and wer
also mailed to the Supreme Court of th
State of California, and also to thi

Supreme Court of the United States. Extracts appear in SA4 herewith.

Myer proceeded to the California State Supreme Court on July 15, 1985, with his PETITION FOR REVIEW AND BRIEF IN SUPPORT THEREOF, case no. LA 32084, as the extracts in SA4 show. Again Myer re-raised all of his challenges: jurisdiction, insufficiencies, no perfection of title as a pre-requisite, and so forth.

On August 2, 1985, the State Supreme Court transferred the matter back to the Court of Appeal, and on August 23, 1985, the Court of Appeal again denied the petition (now case no. G003059). Both of these orders appear in the Appendix herewith.

On September 3, 1985, Myer filed another PETITION FOR REVIEW AND BRIEF IN SUPPORT THEREOF IN THE SUPREME COURT OF THE STATE OF CALIFORNIA (case no. G00305 as was the Court of Appeal's case no.). This petition was essentiallt the same as the first, and the SA4 extracts show the differences. All prior issues were re-raised.

The State Supreme Court denied review on October 30, 1985, hence this PETITION to the United States Supreme Court.

VIII

REASONS FOR GRANTING THE WRIT

The above statement of the case, as well as the extracts in the SUPPLEMENTAL APPENDIX provide details as to why the writ should issue, such that this will only be a summary statement.

Where the summary proceeding of the unlawful detainer action is not adhered to as required by statute, and there are related matters which are clearly established in the records and files in the matter which are beyond the considerations allowed for the unlawful detainer action, such that the matter does not fall within the summary proceeding jurisdictionally or statutorily, rights and due process demand that the decisions and judgments against Petitioner and his

family be reversed or vacated.

The records and files in this matte clearly show that there was absolutely n pre-requisite perfection of title; th service of process of Three-Day Notice t Quit and the the Summonses and Complaint was deficient and insufficient as to th statutory requirements; there was n conventional landlord/tenant relation- ship; the unlawful detainer action wa without and in excess of jurisdiction t proceed or remain at bar; jurisdictio to proceed was not established once i had been challenged; title to the sub- ject property is the ultimate issue, an this is beyond the jurisdiction of th Municipal Court, and Petitioner's claim to purchase ownership are on-going Petitioner's Lis Pendens public recorda- tion and filing in the Superior Cour

did not allow for jurisdiction to accrue to the Municipal Court; Petitioner asserted fraud against Respondent (and others) in his prior suit which should have been grounds for abatement of the unlawful detainer action, as well as other issues, yet it was not abated; the Municipal Court found Petitioner and his family in default on its own motions, yet the court records and files in the matter show clearly that there was no default at any time; Respondent's unlawful detainer action against Petitioner and his family was a vexatious, harassing, and unwarranted multiplicity of suit; that a writ of mandate/prohibition to stop the unlawful detainer upon Petitioner's petition was in order; that, accordingly, an order to abate or stay the unlawful detainer action upon Petitioner's request was appropriate, but was not issued; that

denial of Petitioner's request for a settled statement as part of the appeal process in accordance with California rules of court was unwarranted; that the doctrine of stare decisis has been overturned in this matter; that, due to the foregoing, the California Court of Appeal should have issued a writ of review (certiorari); and that, due to the foregoing, the California State Supreme Court should have reviewed the entire matter.

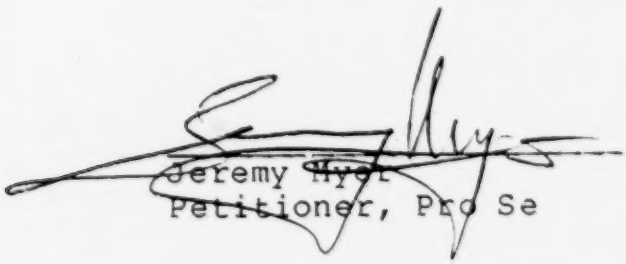
When Myer entered into this unlawful detainer matter, he knew next to nothing about it, and knew nothing of the statutes and related case law. The more he researched, the more he found that his position was actually sustained. It is apparent that Myer is in a situation whereby 'power corrupts, and absolute power corrupts absolutely' along with

'the arrogance of power'.

If the scales of justice which are the symbol of this Court and the States of the United States of America are to be kept in balance, this Court must adjust those scales by taking action to uphold and re-affirm the decisions of this Court on an individual's right to not be dispossessed of property without strict adherence to the mandates of due process of law.

Dated: January 27, 1986.

Respectfully submitted



Jeremy Hyatt
Petitioner, Pro Se

APPENDIX TO

PETITION FOR WRIT OF CERTIORARI TO

THE STATE OF CALIFORNIA SUPREME COURT

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

I N B A N K

JEREMY MYER, Petitioner, v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE, Respondent, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	Civil Action No. G003059

ORDER DENYING REVIEW

AFTER JUDGMENT BY THE COURT OF APPEAL

4th District, Division 3, No. G003059

Petition for review DENIED.

FILED: OCT 30 1985

Bird
Chief Justice

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

JEREMY MYER, Petitioner, v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE, Respondent, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	Civil Action No. G003059 (Super. Ct. No. AP-4726 & 42-14-46)

THE COURT:*

The petition for a writ of review is

DENIED.

FILED: AUG 23 1985

CROSBY

CROSBY, Acting P.J.

*Before Crsoby, Acting P.J., Wallin, J.

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

I N B A N K

JEREMY MYER,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action
	)	No. LA 32084
THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT,	)	
	)	
THE SUPERIOR COURT FOR THE COUNTY OF ORANGE,	)	
	)	
APPELLATE DEPARTMENT, THE SUPERIOR COURT FOR THE COUNTY OF ORANGE,	)	
	)	
THE COURT OF APPEAL, FOURTH APPELLATE DISTRICT, DIVISION III,	)	
	)	
Respondents,	)	
	)	
PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION,	)	
	)	
Real Party in Interest.	)	

The above entitled matter is transferred to the Court of Appeal, Fourth Appellate District, Division Three. (See Hagan v. Superior Court (1962) 57 Cal.2d

767.)

FILED: AUG 2 1985

BIRD, C. J.
Chief Justice

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

JEREMY MYER,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action
	)	No. G002742
THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT,	)	(Super. Ct. No. AP-4726 & 42-14-46)
THE SUPERIOR COURT FOR THE COUNTY OF ORANGE,	)	
	)	
APPELLATE DEPARTMENT, THE SUPERIOR COURT FOR THE COUNTY OF ORANGE,	)	
	)	
Respondents,	)	
	)	
PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION,	)	
	)	
Real Party in Interest.	)	
	)	

O R D E R

THE COURT:*

The petition for a writ of review is

DENIED.

FILED: MAY 16 1985

TROTTER, Presiding Justice

* Before Trotter, P.J., Wallin, J. and Woolley, Judge **

** Assigned by Chairperson of the Judicial Council

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	Civil Action No. AP-4726 (Super. Ct. No.42-14-46) (Munic. Ct. No. A 73032)
JEREMY MYER, et al., Appellant, v. PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Respondent.	

Petition for rehearing or in the alternative, Petition for certification to the Court of Appeal having been timely filed and the Court having considered the Petitions and reviewed the record; does now

rule, the Petitions and each of them are hereby denied. ENT. 4-29-85

HONS. McLAUGHLIN; BEACOM;

HON. DOMENICHINI,
Acting Presiding Judge

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	Civil Action No. AP-4726 (Super. Ct. No.42-14-46) (Munic. Ct. No. A 73032)
JEREMY MYER, et al., Appellant, v. PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Respondent.	)	

JUDGMENT & ORDER OF SUPERIOR COURT

This matter having been taken under submission, the Court now rules:

Appellant's motions regarding the proposed settled statement, and to have

the subject property immediately returned to him and his family are hereby denied. Further it is ordered that the order awarding plaintiff restitution of the premises made and entered in the North Orange County Municipal Court is hereby affirmed.

ENT. 4-1-85.

HONS. McLAUGHLIN; BEACOM;

HON. DOMENICHINI,
Acting Presiding Judge

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	Civil Action No. AP-4726 (Super. Ct. No.42-14-46) (Munic. Ct. No. A 73032)
JEREMY MYER, et al., Appellant, v. PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Respondent.	ON APPEAL from the MUNICIPAL COURT of the NORTH ORANGE COUNTY JUDICIAL DISTRICT

HON. LOGAN MOORE, JUDGE
HON. LINDA LANCET MILLER, JUDGE

This cause having been argued and submitted, and fully considered, judgment is ordered as follows:

It is ORDERED AND ADJUDGED that the

order awarding plaintiff restitution of the premises made and entered in the Municipal Court of the above designated Judicial District, County of Orange, State of California, in the above entitled cause be and the same is hereby affirmed.

The cause is remanded to the Municipal Court for further proceedings.

Dated this 1st day of April, 1985.

Domenichini
Frank Domenichini, Acting Presiding Judge

McLaughlin
Linda Hodge McLaughlin, Judge

Beaacom
Richard J. Beacom, Judge

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION,	)	
Plaintiff,	)	
v.	)	Civil Action No. A 73032
JOHN RAY WOELKE, and DOES 1-10, inclusive,	)	
Defendants.	)	

ORDER FOR WRIT OF POSSESSION BY CLERK
UNLAWFUL DETAINER

In this action the Defendant(s) JEREMY MYER, MRS. JEREMY MYER, LISA MYER having been regularly served with summons and copy of complaint, having failed to appear and answer the complaint of Plaintiff(s) within the time allowed by law, and the default of said Defendant(s) having been duly entered, upon application of Plaintiff(s) pursuant to C.C.P. § 1169, the Clerrk entered the following judgment:

That Plaintiff(s) do have and recover from Defendant(s) JEREMY MYER, MRS. JEREMY MYER, LISA MYER

the restitution and possession of those certain premises situated, lying and being in the City of Anaheim, County of Orange, State of California, and is described as follows: 4358 ADDINGTON DRIVE, ANAHEIM, CA

DOES 4-10 DISMISSED.

FILED: AUG 24 1984

8-28-84 writ issued

ROBERT R. RILL
CLERK OF THE COURT

By Sandra K. Reid,
Deputy

NOTICE OF DEFAULT ENTRY

In this action the defendant JEREMY MYER, MRS. JEREMY MYER, LISA MYER having been regularly served with summons in the manner required by law, and having failed to appear and answer the plaintiff's complaint on file herein, and the time for answering having expired, the default of said defendant _____ is hereby duly entered according to law.

I declare under the penalty of perjury that the foregoing is true and correct.

date 8-22-84

ROBERT R. RILL
Clerk of the above entitled court

By Patricia Crawford
deputy clerk

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

DEPARTMENT 23

JEREMY MYER, Petitioner, v. THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	Civil Action No. 42-14-46 (Munic. Ct. No. A 73032)

The Court having taken the matter under submission on 6-28-84 hereby rules as follows: Motion for Order for Abatement of Municipal Court Proceeding or, in the alternative, Stay of Proceedings : Denied. Pursuant to Ca. Evidence Code Sections 451, 452, this Court takes judicial notice of Orange County Superior Court action Myer vs. Ragland

(#41-72-38) and specifically the order sustaining the Demurrer to the First Amended Complaint without leave to amend. Elimination of said action (#41-72-38) negates the need for an affirmative ruling in this matter (#42-14-46). The preliminary injunction signed April 2, 1984 staying North Orange County Action A-73032 (Pacific Federal Savings and Loan vs. Myer) is hereby dissolved. Clerk to give notice. ENTERED: 8-17-84

Hon. WILLIAM SHEFFIELD, Judge

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

DEPARTMENT 23

JEREMY MYER, Petitioner, v. THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	Civil Action No. 42-14-46 ORDER GRANTING[SIC] [DENYING] WRIT OF MANDATE/ PROHIBITION (Munic. Ct. No. A 73032)

The Writ of Mandate/Prohibition as requested by petitioner and taken under submission on March 12, 1984, is hereby denied. While documents presented to this Court are unintelligible as to the relief sought, it appears that petitioner Myer wishes this Court to restrain the continuation of an unlawful detainer action in Municipal Court. Therefore,

this Court construing the petition as a request for injunctive relief, hereby orders that a preliminary injunction issue staying North Orange County Action A-73032 (Pacific Federal Savings and Loan vs. Myer) for a period of forty-five days upon condition that petitioner post a $50.00 bond (CCP 529). The Superior Court has the authority to stay an eviction proceeding based upon the Code of Civil Procedure Sec. 526 which permits a preliminary injunction to issue to preserve the status quo on such grounds as irreparable injury, multiplicity of legal actions or unconscionable relative hardship (Asuncion (1980) 108 CA3d 141, citing Continental Baking Co. (1968) 68 C2d 512).

While this Court is cognizant of the fact that the summary unlawful detainer

action is generally not suitable to try ownership issues as stated in Asuncion, supra. (distinguishable on its facts from the matter at bar) "Homeowners cannot be evicted consistent with due process guarantees, without being permitted to raise defenses which if proved would maintain their possession and ownership". The facts at bar show that the Municipal Court unlawful detainer action seeks possession stemming from the foreclosure of a Trust Deed which sale Myer seeks to invalidate in action #41-72-38 (Myer vs. Ragland, et al.). The purpose behind this Court's issuing its stay order is to allow Myer an opportunity to correct his pleadings and file a viable Superior Court action; should he be successful in this attempt, it would then be incumbent upon him to seek the appropriate relief to maintain this stay.

DATED: April 2, 1984.

WILLIAM SHEFFIELD

WILLIAM SHEFFIELD
Judge of the Superior Court

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	Civil Action No. A 73032

NOTICE OF ORDER

I certify that the following order as shown was entered on 2-10-84

HONORABLE LOGAN MOORE, JUDGE DIV. 18

MOTION TO VACATE JUDGMENT AND FOR FINDINGS DISMISSED ON COURT'S OWN MOTION.

dated 2-15-84 FILED: FEB 15 1984

ROBERT R. RILL

Clerk of the above entitled court

By Sandra K. Reid
Deputy clerk

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION,	)	
Plaintiff,	)	
v.	)	Civil Action No. A 73032
JOHN RAY WOELKE, and DOES 1-10, inclusive,	)	
Defendants.	)	

NOTICE OF ORDER

I certify that the following order as shown was entered on 1-25-84

HONORABLE LOGAN MOORE, JUDGE DIV. 18

MOTION TO QUASH FILED 1-24-84 IS DISMISSED ON COURT'S OWN MOTION.

DEFAULT MAY BE ENTERED AT PLAINTIFF'S DISCRETION.

dated 1-25-84 FILED: JAN 25 1984

ROBERT R. RILL
Clerk of the above entitled court

By Sandra K. Reid
Deputy clerk

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	Civil Action No. A 73032

CIVIL MINUTE SHEET

Court convened JAN 20 1984

Hon. LINDA LANCET MILLER, Judge

Motion to Quash denied.

Plaintiff to give notice.

Linda Lancet Miller, Judge

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	Civil Action No. A 73032

NOTICE OF ORDER

I certify that the following order as shown was entered on 1-6-84

HON JUDGE LOGAN MOORE DIV. 18

MOTION TO QUASH DENIED.

dated 1-9-84 FILED: JAN 9 1984

ROBERT R. RILL

Clerk of the above entitled court

By Esther Z. Duron
Deputy clerk

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

(See citations in the Petition)

California Constitution, Preamble

We, the People of the State of California, greatful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

California Constitution, Article I, Section 1

All people are by nature free and independant and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness and privacy.

California Constitution, Article I, Section 7(a)

A person may not be deprived of... property without due process of law or denied equal protection of the laws;....

California Constitution, Article I, Section 7(b)

A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens.

California Constitution, Article I, Section 9

A...law impairing the obligation of contracts may not be passed.

California Constitution, Article I, Section 13

The right of the people to be secure

in their persons, houses, papers, and effects against unreasonable seizures... may not be violated;....

California Constitution, Article I, Section 24

Rights guaranteed by this Constitution are not dependant on those guaranteed by the United States Constitution. This declaration of rights may not be construed to impair or deny others retained by the people.

California Constitution, Article I, Section 26

The provisions of this Constitution are mandatory and prohibitory, unless by express words they are to be declared otherwise.

California Constitution, Article III, Section 1

The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land.

California Constitution, Article III, Section 3

The powers of the state government are legislative, executive and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.

California Constitution, Article VI, Section 1

The judicial power of this State is vested in the Supreme Court, courts of appeal, superior courts, municipal

courts, and justice courts. All except justice courts are courts of record.

California Constitution, Article VI, Section 9

The State Bar of California is a public corporation. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a judge of a court of record.

California Constitution, Article VI, Section 14

Decisions of the...courts of appeal that determine causes shall be in writing with reasons stated.

California Constitution, Article XX, Section 3

All public officers and employees, executive, legislative, and judicial, except such inferior officers and employees as may be by law exempted, shall before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully dis-

charge the duties upon which I am about to enter.

"....".

California Business and Professions Code, Section 6067

Every person on his admission [to practice law] shall take an oath to support the Constitution of the United States and the Constitution of the State of California,....

CALIFORNIA CIVIL CODE
SECTION 13
(CC §13 or CC Sec. 13)

Words and phrases are construed according to the context and the approved usage of the language; but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined in the succeeding section, are to be construed according to such peculiar and appropriate meaning or defintion.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 4
(CCP §4 or CCP Sec. 4)

The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this code. The code establishes the law of this State respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 16
(CCP §16 or CCP Sec. 16)

Words and phrases are construed according to the context and the approved usage of the language; but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined in the succeeding section, are to be construed according to such peculiar and appropriate meaning or defintion.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 369
(CCP §369 or CCP Sec. 369)

An executor or administrator, or trustee of an express trust, or a person expressly authorized by statute, may sue without joining with him the persons for whose benefit the action is prosecuted. A person with whom, or in whose name, a contract is made for the benefit of another, is a trustee of an express trust, within the meaning of this section.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 371
(CCP §371 or CCP Sec. 371)

If a husband and wife are sued together, each may defend for his or her own right, but if one spouse neglects to defend, the other spouse may defend for that spouse's right also.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 409
(CCP §409 or CCP Sec. 409)

a) In an action concerning real property or affecting the title or the right of possession of real property, the plaintiff, at the time of filing the complaint, and the defendant, at the time of filing a cross-complaint, or at any time afterward, may record in the office of the recorder of the county in which the property is situated, a notice of the pendency of the action, containing the names of the parties, and the object of the action or cross-action, and a description of the property in that county affected thereby. This section authorizes a notice of an action concerning real property pending in any United States district court to be recorded and indexed in the same manner and in the same place as herein provided with respect to

notices of action pending in courts of this state. From the time of filing such notice for record only, shall a purchases or encumbrancer of the property affected thereby be deemed to have constructive notice of the pendency of the action as it relates to the real property and only of its pendency against parties designated by their real names.

(b) The person causing the notice of the pendency of the action to be recorded shall first cause a copy of the notice to be served upon the other party, by first class mail, return receipt requested, mailed to all known addresses of the adverse parties and all owners of record as shown by the county assessor's office. A copy of the notice of the pendency of the action shall also be filed with the court in which the lawsuit is filed. Service shall also be made imme-

ditely upon each adverse party who is later brought into the action pursuant to Section 472 or 473.

(c) Any notice of the pendency of the action recorded pursuant to subdivision (a) shall be void and invalid as to any adverse party or owner of record, unless the requirements of subdivision (b) are met for the party or owner, and a proof of service, as set forth in Section 1013a, has been recorded with the notice of the pendency of the action. If there is no known address for service on an adverse party or owner as required under subdivision (b) above, then as to that party a declaration under penalty of perjury to such effect shall be recorded instead of the proof of service described above and the service on that party shall not be required.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 415.20(b)
(CCP §415.20(b) or CCP Sec. 415.20(b))

(b) If a copy of the summons and of the complaint cannot with reasonable diligence be personally delivered to the person to be served as specified in Section 416.60, 416.70, 416.80, or 416.90, a summons may be served by leaving a copy of the summons and of the complaint at such person's dwelling house, usual place of abode, or usual place of business in the presence of a competent member of the household or a person apparently in charge of his office or place of business, at least 18 years of age, who shall be informed of the contents thereof, and by thereafter mailing a copy of the summons and of the complaint (by first-class mail, postage prepaid) to the person to be served at the place where a copy of the summons and of the complaint were

left. Service of a summons in this manner is deemed complete on the 10th day after such mailing.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 416.90
(CCP §416.90 or CCP Sec. 416.90)

A summons may be served on a person not otherwise specified in this article by delivering a copy of the summons and of the complaint to such person or to a person authorized by him to receive service of process.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 413.10
(CCP §418.10 or CCP Sec. 418.10)

(a) A defendant, on or before the last day of his time to plead or within such further time as the court may for good cause allow, may serve and file a notice of motion either or both:

(1) To quash service of summons on the ground of lack of jurisdiction of the court over him.

(2) To stay or dismiss the action on the ground of inconvenient forum.

(b) Such notice shall designate, as the time for making the motion, a date not less than 10 nor more than 20 days after filing of the notice. The service and filing of the notice shall extend the defendant's time to plead until 15 days after service upon him of a written

notice of entry of an order denying his motion, except that for good cause shown the court may extend the defendant's time to plead for an additional period not exceeding 20 days.

(c) If such motion is denied by the trial court, the defendant, within 10 days after service upon him of a written notice of entry of an order of the court denying his motion, or within such further time not exceeding 20 days as the trial court may for good cause allow, and before pleading, may petition an appropriate reviewing court for a writ of mandate to require the trial court to enter its order quashing the service of summons or staying or dismissing the action. The defendant shall file or enter his responsive pleading in the trial court within the time prescribed by subdivision (b) unless, on or before the last day of his

time to plead, he serves upon the adverse party and files with the trial court a notice that he has petitioned for such writ of mandate. The service and filing of such notice shall extend his time to plead until 10 days after service upon him of a written notice of the final judgment in the mandate proceeding. Such time to plead may for good cause shown be extended by the trial court for an additional period not exceeding 20 days.

(d) No default may be entered against the defendant before expiration of his time to plead, and no motion under this section, or under Section 473 or 473.5 when joined with a motion under this section, or application to the court or stipulation of the parties for an extension of the time to plead, shall be deemed a general appearance by the defendant.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 430.10
(CCP §430.10 or CCP Sec. 430.10)

The party against whom a complaint or cross-complaint has been filed may object, by demurrer or answer as provided in Section 430.30, to the pleading on any one or more of the following grounds:

(a) The court has no jurisdiction of the subject of the cause of action alleged in the pleading.

(b) The person who filed the pleading does not have the legal capacity to sue.

(c) There is another action pending between the same parties on the same cause of action.

(d) There is a defect or misjoinder of the parties.

(e) The pleading does not state facts sufficient to constitute a cause of action.

(f) The pleading is uncertain. As used in this subdivision, "uncertain" includes ambiguous and unintelligible.

(g) In an action founded upon a contract, it cannot be ascertained from the pleading whether the contract is written, or whether it is implied by conduct.

(h) No certificate was filed as required by Section 411.30 or 411.35.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 474
(CCP §474 or CCP Sec. 474)

When the plaintiff is ignorant of the name of a defendant, he must state that fact in the complaint, or the affidavit if the action is commenced by affidavit, and such defendant may be designated in any pleading or proceeding by any name, and when his true name is discovered, the pleading or proceeding must be amended accordingly; provided, that no default or default judgment shall be entered against a defendant so designated, unless it appears that the copy of the summons or other process, or, if there be no summons or process, the copy of the first pleading or notice served upon such defendant bore on the face thereof a notice stating in substance: "To the person served: You are hereby served in the within action (or proceed-

ings) as (or on behalf of) the person sued under the fictitious name of (designating it)." The certificate or affidavit of service must state the fictitious name under which such defendant was served and the fact that notice of identity was given by endorsement upon the document served as required by this section. The foregoing requirements for entry of a default or default judgment shall be applicable only as to fictitious names designated pursuant to this section and not in the event the plaintiff has sued the defendant by an erroneous name and shall not be applicable to entry to a default or default judgment based upon service, in the manner otherwise provided by law, of an amended pleading, process or notice designating defendant by his true name.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 597
(CCP §597 or CCP Sec. 597)

When the answer pleads that the action is barred by the statute of limitations, or by a prior judgment, or that another action is pending upon the same cause of action, or sets up any other defense not involving the merits of the plaintiff's cause of action but constituting a bar or ground of abatement to the prosecution thereof, the court may, either upon its own motion or upon the motion of any party, proceed to the trial of such special defense or defenses before the trial of any other issue in the case, and if the decision of the court, or the verdict of the jury, upon any special defense so tried (other than the defense of another action pending) is in favor of the defendant pleading the same, judgment for such defendant shall

thereupon be entered and no trial of other issues in the action shall be had unless such judgment shall be reversed on appeal or otherwise set aside or vacated; and where the defense of another action pending is sustained (and no other special defense is sustained) an interlocutory judgment shall be entered in favor of the defendant pleading the same to the effect that no trial of other issues shall be had until the final determination of such other action, and the plaintiff may appeal from such interlocutory judgment in the same manner and within the same time as is now or may be hereafter provided by law for appeals from judgments. If the decisions of the court, or the verdict of the jury, upon the special defense or defenses so tried shall be in favor of the plaintiff, trial of the other issues shall thereafter be

had either upon the court's own motion or upon the motion of any party, and judgment shall be entered thereon in the same manner and with the same effect as if all the issues in the case had been tried at one time. In such event any and all decisions or verdicts upon such special defense or defenses, and all rulings on the trial thereof shall be deemed excepted to and may be reviewed on motion for a new trial or upon appeal from such judgment.

The provisions of this section shall also apply to the trial of special defenses pleaded in an answer to a cross-complaint, and if the decision of the court or the verdict of the jury upon the special defense or defenses shall be in favor of the cross-defendant, no further trail shall be had upon the issues raised by the cross-complaint, but trial of the

other issues in the action shall thereafter be had either upon the court's own motion or upon the motion of any party, and after the trial thereof such judgment shall be entered in the action as shall be justified by the decision or verdict on such other issues, considered in connection with the decision or verdict upon the trial of such affirmative defense raised in the answer to the cross-complaint.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 663
(CCP §663 or CCP Sec. 663)

A judgment or decree, when based upon a decision by the court, or the special verdict of a jury, may, upon motion of the party aggrieved, be set aside and vacated by the same court, and another and different judgment entered, for either of the following causes, materially affecting the substantial rights of the party and entitling the party to a different judgment:

1. Incorrect or erroneous legal basis for the decision, not consistent with or not supported by the facts; and in such case when the judgment is set aside, the statement of decision shall be amended and corrected.

2. A judgment or decree not consistent with or not supported by the special verdict.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 663a
(CCP §663a or CCP Sec. 663a)

The party intending to make the motion mentioned in the last section must file with the clerk and serve upon the adverse party a notice of his intention, designating the grounds upon which the motion will be made, and specifying the particulars in which the conclusions of law are not consistent with the finding of facts or in which the judgment or decree is not consistent with the special verdict, either

1. Before the entry of judgment;

2. Within 15 days of the date of mailing of notice of entry of judgment by the clerk of the court pursuant to Section 664.5, or service upon him by any party of written notice of entry of judgment, or within 180 days after the entry of judgment, whichever is earliest.

The provisions of Section 1013 of this code extending the time for exercising a right or doing an act where service is by mail shall not apply to extend the time above specified.

An order of the court granting such motion may be reviewed on appeal in the same manner as a special order made after final judgment.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 904.1
(CCP §904.1 or CCP Sec. 904.1)

An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h), (i) and (j), (2) a judgment of contempt which is made final and conclusive by Section 1222, or (3) a judgment on appeal from a municipal court or a justice court or a small claims court or (4) a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition directed to a municipal court or a justice court or the judge or judges thereof which relates to a matter pending in the municipal or justice court. However, an appellate court may, in its discretion, review a judgment granting or denying a petition for issuance of a writ

of mandamus or prohibition upon petition for an extraordinary writ.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(f) From an order granting or dissolving an injunction, or refusing to grant dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment,

order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining the right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an order or decree made appealable by the provisions of the Probate Code.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1013a
(CCP §1013a or CCP Sec. 1013a)

Proof of service by mail may be made by one of the following methods:

(1) An affidavit setting forth the exact title of the document served and filed in the cause, showing the name and residence or business address of the person making the service, showing that he or she is a resident of or employed in the county where the mailing occurs, that he or she is over the age of 18 years and not a party to the cause, and showing the date and place of deposit in the mail, the name and address of the person served as shown on the envelope, and also showing that the envelope was sealed and deposited in the mail with the postage thereon fully prepaid.

(2) A certificate setting forth the exact title of the document served and

filed in the cause, showing the name and business address of the person making the service, showing that he or she is an active member of the State Bar of California and is not a party to the cause, and showing the date and place of deposit in the mail, the name and address of the person served as shown on the envelope, and also showing that the envelope was sealed and deposited in the mail with the postage thereon fully prepaid.

(3) In case of service by the clerk of a court of record, a certificate by that clerk setting forth the exact title of the document served and filed in the cause, showing the name of the clerk and the name of the court of which he or she is the clerk and that he or she is not a party to the cause, and showing the date and place of deposit in the mail, the name and address of the person served as

shown on the envelope, and also showing that the envelope was sealed and deposited in the mail with the postage thereon fully prepaid.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1068
(CCP §1068 or CCP Sec. 1068)

A writ of review may be granted by any court, except a municipal or justice court, when an inferior tribunal, board, or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor, in the judgment of the court, any plain, speedy, and adequate remedy.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1069
(CCP §1069 or CCP Sec. 1069)

The application must be made on the verified petition of the party beneficially interested, and the court may require a notice of the application to be given to the adverse party, or may grant an order to show cause why it should not be allowed or may grant the writ without notice.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1085
(CCP §1085 or CCP Sec. 1085)

It may be issued by any court, except a municipal or justice court, to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station; or to compel the admission of a party to the use and enjoyment of a right or office to which he is entitled, and from which he is unlawfully precluded by such inferior tribunal, corporation, board, or person.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1086
(CCP §1086 or CCP Sec. 1086)

The writ must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the ordinary course of law. It must be issued upon the verified petition of the party benefically interested.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1102
(CCP §1102 or CCP Sec. 1102)

The writ of prohibition arrests the proceedings of any tribunal, corporation, board, or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1103
(CCP §1103 or CCP Sec. 1103)

It may be issued by any court, except municipal or justice courts, to an inferior tribunal or to a corporation, board, or person, in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. It is issued upon the verified petition of the person beneficially interested.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1107
(CCP §1107 or CCP Sec. 1107)

When an application is filed for the issuance of any prerogative writ, the application shall be accompanied by proof of service of a copy thereof upon the respondent and the real party in interest named in such application. The provisions of Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 shall apply to the service of the application. However, when a writ of mandate is sought pursuant to the provisions of Section 1088.5, the action may be filed and served in the same manner as an ordinary action under Part 2 (commencing with Section 307). Where the real party in respondent's interest is a board or commission, the service shall be made upon the presiding officer, or upon the secretary, or upon a majority of the mem-

bers of the board or commission. Within five days after service and filing of the application, the real party in interest or the respondent or both may serve upon the applicant and file with the court points and authorities in opposition to the granting of the writ.

The court in which the application is filed, in its discretion and for good cause, may grant the application ex parte, without notice or service of the application as herein provided.

The provisions of this section shall not be applicable to applications for the writ of habeas corpus, or to applications for writs of review of the Industrial Accident of Public Utilities Commissions.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1161
(CCP §1161 or CCP Sec. 1161)

A tenant of real property, for a term less than life, or the executor or administrator of his estate heretofore qualified and act, is guilty of unlawful detainer:

1. When he continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to him; provided such expiration is of a nondefault nature however brought about without the permission of his landlord, or the successor in estate of his landlord, if any there be; including the case where the person to be removed became the occupant of the premises as a servant, employee, agent, or licensee and the relation of master and servant or employer and employee or principal and

agent or licensor and licensee has been lawfully terminated or the time fixed for such occupancy by the agreement between the parties has expired; but nothing in this subdivision contained shall be construed as preventing the removal of such occupant in any other lawful manner; but in case of a tenancy at will, it must first be terminated by notice, as prescribed in the Civil Code.

2. When he continues in possession, in person or by subtenant, without the permission of his landlord, or the successor in estate of his landlord, if any there be, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment, stating the amount which is due, or possession of the property, shall have been served upon him

and if there is a subtenant in actual occupation of the premises, also upon such subtenant.

Such notice may be served at any time within one year after the rent becomes due. In all cases of tenancy upon agricultural lands, where the tenant has held over and retained possession for more than 60 days after the expiration of the term without any demand of possession or notice to quit by the landlord, or the successor in estate of his landlord, if any there be, he shall be deemed to be holding by permission of the landlord or successor in estate of his landlord, if any there be, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during said year, and such holding over the period aforesaid shall be taken and construed as a

consent on the part of a tenant to hold for another year.

3. When he continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, in writing, requiring the performance of such conditions or covenants, or the possession of the property, shall have been served upon him, and if there is a subtenant in actual occupation of the premises, also, upon such subtenant. Within three days after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance,

may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture; provided, if the conditions and covenants of the lease, violated by the lessee, cannot afterward be performed, then no notice, as last prescribed herein, need be given to said lessee or his subtenant, demanding the performance of the violated conditions or covenants of the lease.

A tenant may take proceedings, similar to those prescribed in this chapter, to obtain possession of the premises let to a subtenant or held by a servant, employee, agent, or licensee, in case of his unlawful detention of the premises underlet to him or held by him.

4. Any tenant, subtenant, or executor or administrator of his estate heretofore qualified and now acting, or here-

after to be qualified and act, assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of his lease, or maintaining committing, or permitting the maintenance or commission of a nuisance upon the demised premises or using such premises for an lawful purpose, thereby terminates the lease, and the landlord, or his successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of possession of such demised premises under the provisions of this chapter.

5. When he gives written notice as provided in Section 1946 of the Civil Code of his intention to terminate the hiring of the real property, or makes a written offer to surrender which is accepted in writing by the landlord, but

time specified in said written notice, without the permission of his landlord, or the successor in estate of the landlord, if any there be.

As used in this section, tenant includes any person who hires real property except those persons whose occupancy is described in subdivision (b) of Section 1940 to Civil Code.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1161a
(CCP §1161a or CCP Sec. 1161a)
(Effective until 7/1/84)

In any of the following cases, a person who holds over and continues in possession of real property after a three-day written notice to quit the property has been served upon the person, or if there is a subtenant in actual occupation of the premises, also upon such subtenant, as prescribed in Section 1162, may be removed therefrom as prescribed in this chapter:

1. Where the property has been sold pursuant to a writ of execution against such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

2. Where the property has been sold pursuant to a writ of sale, upon the foreclosure by proceedings taken as pre-

scribed in this code of a mortgage, or under an express power of sale contained therein, executed by such person, or a person under whom such person claims, and the title under the foreclosure has been duly perfected.

3. Where the property has been sold in accordance with Section 2924 of the Civil Code, under a power of sale contained in a deed of trust executed by such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

4. Where the property has been sold by such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1162
(CCP §1162 or CCP Sec. 1162)

The notices required by sections 1161 and 1161a may be served, either:

1. By delivering a copy to the tenant personally; or,

2. If he be absent from his place of residence, and from his usual place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the mail addressed to the tenant at his place of residence; or,

3. If such place of residence and business cannot be ascertained, or a person of suitable age or discretion there cannot be found, then by affixing a copy in a conspicuous place on the property, and also delivering a copy to a person there residing, if such person can be found; and also sending a copy

through the mail addressed to the tenant at the place where the property is situated. Service upon a subtenant may be made in the same manner.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1166
(CCP §1166 or CCP Sec. 1166)

The plaintiff, in his complaint, which shall be verified, must set forth the facts on which he seeks to recover, and describe the premises with reasonable certainty, and may set forth therein any circumstances of fraud, force or violence which may have accompanied the alledged forcible entry or forcible or unlawful detainer, the claim damages therefore. In case the unlawful detainer charged is after default in the payment of rent, the complaint must state the amount of such rent. Upon filing the complaint, a summons must be issued thereon.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1167
(CCP §1167 or CCP Sec. 1167)

The summons shall be in the form specfied in Section 412.20 except that the defendant's time to respond to the complaint is five days after the summons is served upon him.

In all other respects the summons shall be issued and served and returned in the same manner as a summons in a civil action.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1167.3
(CCP §1167.3 or CCP Sec. 1167.3)

In any action under this chapter, unless otherwise ordered by the court for good cause shown, the time allowed the defendant to answer the complaint, answer the complaint, if amended, or amend the answer under subdivision (2), (3), (5) or (6) of Section 586 shall not exceed five days.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1167.4
(CCP §1167.4 or CCP Sec. 1167.4)

Notwithstanding any other provision of law, in any action under this chapter:

(a) Where the defendant files a notice of motion as provided for in subdivision (a) of Section 418.10, the time for making the motion shall be not less than three days nor more than seven days after the filing of the notice.

(b) The service and filing of a notice of motion under subdivision (a) shall extend the defendent's time to plead until five days after service upon him of the written notice of entry of an order denying his motion, except that for good cause shown the court may extend the defendant's time to plead for an additional period not exceeding 15 days.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1169
(CCP §1169 or CCP Sec. 1169)

If at the time appointed any defendant served with a summons does not appear and defend, the clerk, or the judge if there is no clerk, upon written application of the plaintiff and proof of the service of summons and complaint, shall enter the default of any defendant so served, and, if requested by the plaintiff, immediately shall enter judgment for restitution of the premises and shall issue a writ of execution thereon. Thereafter, the plaintiff may apply to the court for any other relief demanded in the complaint, including the costs, against the defendant, or defendants, or against one or more of the defendants.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1177
(CCP §1177 or CCP Sec. 1177)

Except as otherwise provided in this chapter the provisions of part two of this code are applicable to, and constitute the rules of practice in the proceedings mentioned in this chapter.

CCP Part II Civil Actions §§ 307-1062a

CCP Part III Special Proceedings §§ 1063-1833.2

CALIFORNIA EVIDENCE CODE
SECTION 451
(EC §451 or EC Sec. 451)

Judicial notice shall be taken of:

(a) the decisional, constitutional, and public statutory law of this state and of the United States and the provisions of any charter described in Section [1] 3, 4 or [2]5 of Article XI of the California Constitution.

(b) Any matter made a subject of a judicial notice by Section 11343.7, 11343.8, or 18576 of the Government Code or by Section 1507 of Title 44 of the United States Code.

(c) Rules of professional conduct for members of the bar adopted pursuant to Section 6076 of the Business and Professions Code and rules of practice and procedure for the courts of this state adopted by the Judicial Council.

(d) Rules of pleading, practice, and

procedure prescribed by the United States Supreme Court, such as the Rules of the United States Supreme Court, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Admiralty Rules, the Rules of the Court of Claims, the Rules of the Customs Court, and the General Orders and Forms in Bankruptcy.

(e) The true signification of all English words and phrases and of all legal expressions.

(f) Facts and propositions of generalized knowledge that are so universally known that they cannot reasonably be the subject of dispute.

CALIFORNIA EVIDENCE CODE
SECTION 452
(EC §452 or EC Sec. 452)

Judicial notice may be taken of the following matters to the extent that they are not embraced within Section 451:

(a) The decisional, constitutional, and statutory law of any state of the United States and the resolution and private acts of the Congress of the United States and of the Legislature of this state.

(b) Regulations and legislative enactments issued by or under the authority of the United States or any public entity in the United States.

(c) Official acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.

(d) Records of (1) any court of this state or (2) any court of record of

the United States or of any state of the United States.

(e) Rules of court of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.

(f) The law of an organization of nations and of foreign nations and public entities in foreign nations.

(g) Facts and propositions that are of such common knowledge within the territorial jurisdiction of the court that they cannot reasonably be the subject of dispute.

(h) Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

CALIFORNIA EVIDENCE CODE
SECTION 453
(EC §453 or EC Sec. 453)

The trial court shall take judicial notice of any matter specified in Section 452 if a party requests it and:

(a) Gives each adverse party sufficient notice of the request, through the pleadings or otherwise, to enable such adverse party to prepare to meet the request; and

(b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.

(a) [Form and content of petition] A petition to a reviewing court for a writ of mandate, certiorari, or prohibition, or for any other writ within its original jurisdiction, must be verified and shall set forth the matters required by law to support the petition, and also the following: (1) if the petition might lawfully have been made to a lower court in the first instance, it shall set forth the circumstances which, in the opinion of the petitioner, render it proper that the writ should issue originally from the reviewing court; (2) if any judge, court, board, or other officer or tribunal in the discharge of duties of a public character benamed therein as respondent, the petition shall disclose the name of the real party in interest,

if any, or the party whose interest would be directly affected by the proceeding; and (3) if the petition seeks review of trial court proceedings that are also the subject of a pending appeal, the title of the petition shall include the notation "Related Appeal Pending", and the first paragraph shall set forth: (i) the title, superior court docket number, and appellate court docket number, if any, of the pending appeal, and (ii) if the petition is brought pursuant to Penal Code section 1238.5, the date of filing of the notice of appeal.

The cover of the petition shall contain the title of the case, the name, address and telephone number of the attorney filing the petition, the name of the trial judge and the number of the case in the trial court, if any, [As amended effective July 1, 1980; previous-

ly amended effective July 1, 1976.]

(b) [Points and authorities and service] A petition for the issuance of such a writ shall be accompanied by points and authorities and, except as provided in Code of Civil Procedure section 1088.5, by proof of service of both on the respondent and any real party in interest named in the petition. Except as provided in Code of Civil Procedure section 1089.5, within five days after service and filing the respondent or any real party in interest or both, separately or jointly, may serve and file points and authorities in opposition, and a statement of any fact considered material not included in the petition but the court in its discretion (1) may allow the filing of the petition without service, and (2) may act on the petition without requiring the prior filing of

opposition. [As amended effective January 1, 1983; previously amended effective January 1, 1951, and July 1, 1964.]

(c) [Return] If the petition is granted, with or without prior service or opposition, and a writ or order to show cause issues, the respondent or real party in interest or both, separately or jointly, may make a return, by demurrer, verified answer or both. Unless a different return date is specified by the court, the return shall be made at least five days before the date set for hearing. If the return is by demurrer alone, and the demurrer is not sustained, the peremptory writ may issue without leave to answer. [As amended effective January 1, 1959; previously amended effective January 1, 1951.]

(d) [Proceedings not covered by this rule] The provisions of this rule shall not apply to applications for a writ of habeas corpus, or to petitions for review pursuant to rules 57, 58 and 59.

CALIFORNIA RULES OF COURT
RULE 63

(a) The superior court on application of a party or on its own motion may certify that the transfer of a case to the Court of Appeal appears necessary to secure uniformity of decision or to settle important questions of law. The certification may be made by a majority of the judges of the appellate department. When there was a trial in the superior court, the judge who tried the case may make the certification. If any judge of the appellate department who participated in the decision is unable to act on the certification, then a judge designated or assigned to the appellate department by the chairman of the Judicial Council may act in his place. If the judge who tried the case is unable to act, then the certification may be made by a judge desig-

nated by the presiding judge or, if there be no presiding judge, by any judge of the court.

(b) Any party may apply to the superior court for the certification of a case after judgment in that court. If there was no trial in the superior court such application shall be served and filed before the judgment on appeal becomes final as to that court and may be included in any petition for rehearing. If there was a trial in the superior court the application shall be served and filed at least 10 days before expiration of the time for certification. Any other party may serve and file an opposition within five days after the filing of the application. No hearing shall be held on the application and the failure of the court to certify the case shall be deemed a denial of the application.

CALIFORNIA RULES OF COURT
RULE 107

(a) [Time for rehearing] At any time before a judgment of an Appellate Department becomes final, as hereinafter provided, it may vacate such judgment and order rehearing.

(b) [When judgment becomes final] Unless a rehearing is ordered, every judgment of an appellate department shall become final as follows:

(1) Upon the expiration of 15 days after the judgment is pronounced, unless a petition for rehearing is filed within that time;

(2) If a timely petition for rehearing is filed, upon the expiration of 30 days after the judgment is pronounced or upon the denial of all such petitions, whichever is earlier.

(3) Where the judgment is

modified before it becomes final as above provided, the period specified herein begins to run anew, as of the date of modification; but a change of the opinion without modification of the judgment does not postpone the time when the judgment becomes final. [As amended effective July 1, 1980.]

(c) [Petition, answer and determination] A petition for a rehearing shall be served on all adverse parties before filing, and filed within 15 days after the judgment is pronounced, and shall not be filed unless accompanied by proof of service. An answer to the petition may be served on the petitioning party and filed, if accompanied by proof of service, within eight days after service of the petition. If a rehearing is ordered, the appellate department may place the case on the calendar for

further argument or submit it for decision. [As amended effective July 1, 1980.]

(d) [Computation of time] The periods of time specified in this rule shall be computed as provided in the Code of Civil Procedure, and extended in the cases and to the extent specified by section 12a of said code, but shall not be otherwise extended.

CALIFORNIA RULES OF COURT
RULE 121(a)

(a) [Form of notice] An appeal in a civil case, except a small claims case, from a judgment of a municipal or justice court or from a particular part thereof is taken by filing with the clerk of that court a notice of appeal therefrom. The notice shall be signed by the apellant or by his attorney and shall be sufficient if it states in substance that the appellant appeals from a specified judgment or a particular part thereof. A notice of appeal sahll be liberally construed in favor of its sufficiency. [As amended effective January 1, 1977; previously amended effective July 1, 1964.]

CALIFORNIA RULES OF COURT
RULE 125(a)

(a) Within 10 days after filing the notice of appeal, the appellant shall serve on the respondent and file with the clerk of the trial court a notice designating the paper or records on file or lodged with the clerk, including the clerk's minutes and any written opinion of the trial court and exhibits either admitted in evidence or rejected, and any notices, affidavits, orders, and written instructions given or refused, which he desires incorporated in the record on appeal. The notice designating papers and records and the notice to prepare the reporter's transcript may be included in the same document, and both notices may be included in the document containing the notice of appeal.

CALIFORNIA RULES OF COURT
RULE 127(a)

(a) [Proposal of narrative statement] If, in lieu of a reporter's transcript, the appellant desires to set forth the oral proceedings by a settled statement, he shall serve and file a notice so stating within 10 days after filing the notice of appeal. Within 20 days thereafter the appellant shall serve and file a condensed statement in narrative form of all or such portions of the oral proceedings as he deems material to the determination of the points on appeal. Where necessary for the purposes of accuracy, clarity or convenience, portions of the evidence may be set forth by question and answer, subject to the approval of the court in settling the statement. If the condensed statement purports to cover only a portion of the oral proceedings,

the appellant shall state the points to be raised by him on appeal, and in such event shall be precluded from presenting any grounds for reversal not embraced within the points stated by him unless the reviewing court, on motion, shall permit him to present additional errors or grounds of appeal on such terms as it may prescribe. Within 10 days after service of said narrative statement the respondent may serve and file his proposed amendments thereto. The appellant in his condensed statement and the respondent in his proposed amendments may incorporate any oral instructions given or refused which such party deems material.

Other:

American Jurisprudence, Volume 7,
2d Edition, Section 4

[An attorney] has a duty to support the constitutions and laws of the United States and the states.

American Jurisprudence, Volume 7,
2d Edition, Sections 2 and 5

An attorney is an officer of the court.

California Jurisprudence, Volume 7,
3d Edition, Section 45

Every person on his admission [to practice law] shall take an oath to support the Constitution of the United States and the Constitution of the State of California,....

Supreme Court, U.S.
FILED
JAN 28 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

NO. _____

JEREMY MYER,

Petitioner,

v.

PACIFIC FEDERAL SAVINGS
AND LOAN ASSOCIATION,

Respondent.

SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE STATE OF CALIFORNIA SUPREME COURT

Part 1 of 4

JEREMY MYER
16783 Beach Boulevard
Huntington Beach, CA 92647
714/841-8104
Petitioner, In Pro Se

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	)	Civil Action No. A 73032
v.	)	NOTICE OF SPECIAL CONTINUING APPEARANCE
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	

I, JEREMY MYER, hereby appear SPECIALLY and NOT generally, and assert all of my RIGHTS as secured by....The Constitution of the United States..., and the Constitution and Law of this State...

I respectfully object to the jurisdiction and/or authority of this Court both over the subject matter and/or my person. I DEMAND ALL OF MY RIGHTS, AND I DO NOT WAIVE ANY OF THEM!

Dated: December 29, 1983

Respectfully submitted,

Jeremy Myer, In Pro Per

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	)	Civil Action No. A 73032
v.	)	MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	

S P E C I A L A P P E A R A N C E

COMES NOW THE OWNER OF THE SUBJECT PROPERTY, JEREMY MYER, who appears SPECIALLY and not generally, and whose sole purpose is to challenge the jurisdiction of this Court over the Owner IN PERSONAM and IN REM, and to demand respectfully that the Complaint brought by the Plaintiff be dismissed for LACK OF JURISDICTION.

POINTS AND AUTHORITIES

1. JEREMY MYER is the Owner of the subject Property.

2. The JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY submitted herewith is included herein by its reference.

WHEREFORE, the Owner, JEREMY MYER, respectfully demands this Court to QUASH this case for the grounds as stated above.

Dated: December 29, 1983.

Respectfully submitted,

Jeremy Myer
Owner, In Propria Persona

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	Civil Action No. A 73032
v.	NOTICE OF SPECIAL CONTINUING APPEARANCE
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	

I, JEREMY MYER, hereby appear SPECIALLY and NOT generally, and assert all of my RIGHTS as secured by....The Constitution of the United States..., and the Constitution and Law of this State...

I respectfully object to the jurisdiction and/or authority of this Court both over the subject matter and/or my person. I DEMAND ALL OF MY RIGHTS, AND I DO NOT WAIVE ANY OF THEM!

Dated: December 29, 1983

Respectfully submitted,

Jeremy Myer, In Pro Per

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	)	Civil Action No. A 73032
v.	)	MOTION TO QUASH
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION

S P E C I A L A P P E A R A N C E

COMES NOW THE OWNER OF THE SUBJECT PROPERTY, JEREMY MYER, who appears SPECIALLY and not generally, and whose sole purpose is to challenge the jurisdiction of this Court over the Owner IN PERSONAM and IN REM, and to demand respectfully that the Complaint brought by the Plaintiff be dismissed for LACK OF JURISDICTION.

POINTS AND AUTHORITIES

1. JEREMY MYER is the Owner of the subject Property.

2. The JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY submitted herewith is included herein by its reference.

WHEREFORE, the Owner, JEREMY MYER, respectfully demands this Court to QUASH this case for the grounds as stated above.

Dated: December 29, 1983.

Respectfully submitted,

Jeremy Myer
Owner, In Propria Persona

DECLARATION

I, JEREMY MYER, Owner of the subject property in this case, declare that:

1. I am the owner of the subject property.

2. I was the purchaser of the subject property at the foreclosure sale....

3. I have been and am in possession of subject property, and Defendant JOHN RAY WOELKE has NOT been in possession...at any time pertinent to this case.

4. The Unlawful Detainer SUMMONS, COMPLAINT, and VERIFICATION were left in Owner's mailbox on December 26, 1983, do not apply to Owner, do not apply to JOHN RAY WOELKE since he has not been and is not the possessor of the subject property at any time pertinent to this case.

5. Such Unlawful Detainer is null and void, and inappropriate, due to the foregoing.

6. I have instituted action against Plaintiff (and others) in Superior Court, Orange County, On November 30, 1983, Case No. 41-72-38, regarding the subject property.

7. I now declare and affirm that this Court does not have jurisdiction to proceed in this matter.

8. I affirm that the foregoing is true and correct to the best of my knowledge and belief.

DATED: December 29, 1983

Jeremy Myer
DECLARANT

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	)	Civil Action No. A 73032
v.	)	JUDICIAL NOTICE
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY

S P E C I A L A P P E A R A N C E

NOTICE IS HEREBY GIVEN that Owner, JEREMY MYER, gives JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO THE PLAINTIFF'S ATTORNEY that:

I. JUDICIAL NOTICE is to be taken of the Constitution of the United States and the LAWS made in PURSUANCE thereof; the Constitution of the State of California; and that:

> The Constitution of the United States is THE SUPREME LAW OF THE LAND, and binds every forum, whether it derives its authority from a State or from the United

States. (Emphasis added.)
Cook v. Moffat & Curtis,
46 U.S. 295; 12 L.Ed. 159

The Constitution of the United States and all LAWS enacted PURSUANT to the powers conferred by it on Congress are THE SUPREME LAW OF THE LAND to the same extent as though EXPRESSLY WRITTEN INTO EVERY STATE LAW AND JUDGES IN EVERY STATE ARE BOUND THEREBY, anything in the LAWS of the State to the contrary NOTWITHSTANDING. (Emphasis added.)
People ex rel Happell v. Sischo
23 Cal.2d 478; 144 Pac.2d 785

Where RIGHTS are involved, there can be no rule-making or legislation which abrogates them. (Emphasis added.)
Miranda v. Arizona,
384 U.S. 436; 86 S.Ct. 1602;
16 L.Ed.2d 694

II. JUDICIAL NOTICE is to be taken of the NOTICE OF CONTINUING SPECIAL APPEARANCE, and the NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION (and the POINTS AND AUTHORITIES and DECLARATION) submitted herewith.

III. JUDICIAL NOTICE is to be taken of the following:

A. I, JEREMY MYER, purchased the subject property at the Trustee's Sale on October 28, 1983.

B. By my letter dated October 28, 1983, Owner JEREMY MYER served constructive NOTICE on the auctioneer and Agent of the BENEFICIARY (Plaintiff herein) accordingly, including the statement: I ALSO NOTIFY YOU THAT I AM IN POSSESSION OF SAID PROPERTY,....

C. By said letter...the Trustee was also constructively noticed.

D. By my letter dated October 31, 1983, the Plaintiff herein was also noticed, included therewith a copy of the letter identified in III B, above.

E. Owner JEREMY MYER subsequently received a letter from the Vice President and General Counsel of the Agent which effectively receipted Owner's correspondence. Said Agent's letter is dated

November 2, 1983.

F. Owner JEREMY MYER also received a letter dated November 3, 1983, from the Senior Vice President and General Counsel for the Plaintiff herein, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, effectively receipting Owner's correspondence. Said letter bears the following address:

CORPORATE OFFICES
1901 Newport Boulevard
Costa Mesa, CA 92627

Notice is to be made that Costa Mesa is in Orange County, CA.

G. On November 30, 1983, Owner JEREMY MYER filed a seven-causes of action COMPLAINT as Plaintiff therein against Plaintiff herein (and others) IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF ORANGE, pertinent to the subject property and Owner's purchase of it, etc. Said COMPLAINT is CASE NO. 41-72-38, and was

served the same day (by mail).

H. Said COMPLAINT includes...:

> PLAINTIFF [JEREMY MYER] WAS, AND IS, FOR ALL MATTERS OF THIS COMPLAINT, THE RESIDENT OCCUPANT OF THE SUBJECT PREMISES.

I. Said COMPLAINT also included copies of ALL of the aforesaid correspondence in this section III.

J. Plaintiff herein,...had ample NOTICE of JEREMY MYER'S occupancy/ownership of the subject property.

. . . .

N. On December 9, 1983, Owner JEREMY MYER filed a NOTICE OF PENDING ACTION with the Orange County Recorder, and with the SUPERIOR COURT OF ORANGE COUNTY to supplement CASE NO. 41-72-38. Plaintiff herein was served (by mail) a copy of said NOTICE OF PENDING ACTION the same day.

O. On December 26, 1983, a copy of

the SUMMONS and COMPLAINT--Unlawful Detainer was left in the mailbox of the subject property. Said documents still identify JOHN RAY WOELKE (Defendant, therein), and were placed in the mailbox for "Doe 1".

P. The COMPLAINT--Unlawful Detainer is invalid for the following reasons:

1. Plaintiff is NOT the owner.

2. JOHN RAY WOELKE is not the occupant and has nothing to do with Owner JEREMY MYER.

3. JOHN RAY WOELKE was not served "a three (3) day notice to quit the subject premises", which notice is also invalid.

4. JEREMY MYER was the purchaser of the subject property at the foreclosure sale....

5. In compliance with CC § 2924

et. seq., JEREMY MYER purchased the subject property at the foreclosure sale.

6. Plaintiff's 'perfection of title' is a fraud.

7. Items 4 through 8 of the COMPLAINT--Unlawful Detainer are invalid and fraudulent.

8. As per sub-paragraphs III K, L, and M, item 9 of the COMPLAINT--Unlawful Detainer is incorrect. Also, no such notice has been received in the mail, and there has been at all times herein a "person of suitable age or discretion" at the subject premises.

9. Item 12 of the COMPLAINT--Unlawful Detainer is invalid since no landlord/tenant relationship exxists.

10. The VERIFICATION of the COMPLAINT--Unlawful Detainer is signed by Attorney for Plaintiff LINDA S. NUNEZ because "such party is absent from the

county aforesaid...", and is dated December 5, 1983 at Tustin, California. It MUST be noted that the Corporate Offices of the Plaintiff are in Costa Mesa (as previously shown herein), and that Attorney Nunez MUST be aware of the previously documented herein SUPERIOR COURT SUIT AS WELL AS A COMMUNICATION ADDRESS OF THE OWNER JEREMY MYER which was at all times noted on said SUIT and appropriate correspondence. Such awareness and knowledge must exist by virtue of the client/attorney relationship.

IV. JUDICIAL NOTICE is to be taken that, because of the foregoing, Owner JEREMY MYER believes that the PLAINTIFF HEREIN AND PLAINTIFF'S ATTORNEY ARE HARASSING HIM AND PERPETRATING A FRAUD ON BOTH HIM AND THIS COURT BY BRINGING THIS UNLAWFUL DETAINER ACTION.

V. JUDICIAL NOTICE IS TO BE TAKEN THAT:

As part of this harassment and fraud while the VERIFICATION as signed by Attorney Nunez is dated December 5, 1983, the SUMMONS and COMPLAINT--Unlawful Detainer were not filed with the Court until December 19, 1983, and were not received by Owner/Occupant of the subject property JEREMY MYER until December 26, 1983, in the mailbox of said property --- and not by mail.

VI. JUDICIAL NOTICE IS TO BE TAKEN THAT:

1. Attorneys are officers of the court, and must know and obey the LAW: 52 Cal Jur 3d, § 173:

> Duty to obey the LAW:
>
> It is elementary that public officers must obey the LAW. (Wirin v. Parker, 48 Cal.2d 890; 313 P.2d 844)
>
> The United States Supreme Court has repeatedly asserted that ALL OFFICERS of the government from the highest to the lowest ARE CREATURES OF THE LAW AND

BOUND TO OBEY IT. (63 Am Jur 2d, PUBLIC OFFICERS AND EMPLOYEES § 277)

(Emphasis added.)

2. In U. S. v. Nixon, it was stated that: '...for we are not a country of men but we are a COUNTRY OF LAWS AND ALL MUST FOLLOW THEM, including the highest men in office'.

3. Where there is no jurisdiction there is no judge; THE PROCEEDING IS AS NOTHING. Manning v. Ketcham, 58 F.2d 948. (Emphasis added.)

VII. JUDICIAL NOTICE is to be taken that the Plaintiff herein has NO CAUSE OF ACTION to pursue this Unlawful Detainer action.

I, JEREMY MYER, True Owner of the subject property and occupant thereof, do declare and affirm that the foregoing is true and correct to the best of my knowledge and

belief.

Dated: December 29, 1983.

Respectfully submitted,

Jeremy Myer
Owner, In Propria Persona

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	)	Civil Action No. A 73032
v.	)	NOTICE OF HEARING
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	JUDICIAL NOTICE

NOTICE TO THE COURT OF ERROR;
NOTICE TO PLAINTIFF'S ATTORNEY;
NOTICE OF POSSIBLE FRAUD;
NOTICE OF OBJECTIONS;
DEMAND FOR QUASH OF SERVICE OF
SUMMONS AND COMPLAINT FOR
LACK OF JURISDICTION.

S P E C I A L A P P E A R A N C E

NOTICE IS HEREBY GIVEN that Owner, JEREMY MYER, appears SPECIALLY and not generally to give JUDICIAL NOTICE, NOTICE TO THE COURT OF ERROR, NOTICE TO PLAINTIFF'S ATTORNEY, NOTICE OF POSSIBLE FRAUD, NOTICE OF OBJECTIONS, and DEMAND FOR QUASH OF SUMMONS AND COMPLAINT AND ANY AND ALL FURTHER PROCEEDINGS IN THIS

UNLAWFUL DETAINER ACTION FOR LACK OF JURISDICTION in open court on January 20, 1984,....

dated: January 12, 1984.

Respectfully submitted,

Jeremy Myer
In Propria Persona

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	)	Civil Action No. A 73032
v.	)	
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	JUDICIAL NOTICE

NOTICE TO THE COURT OF ERROR;
NOTICE TO PLAINTIFF'S ATTORNEY;
NOTICE OF POSSIBLE FRAUD;
NOTICE OF OBJECTIONS;
DEMAND FOR QUASH OF SERVICE OF
SUMMONS AND COMPLAINT FOR
LACK OF JURISDICTION.

S P E C I A L A P P E A R A N C E

NOTICE IS HEREBY GIVEN that Owner, JEREMY MYER, gives JUDICIAL NOTICE, NOTICE TO THE COURT OF ERROR, NOTICE TO PLAINTIFF'S ATTORNEY, NOTICE OF POSSIBLE FRAUD, NOTICE OF OBJECTIONS, and of DEMAND FOR QUASH OF SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION that:

I. The previously filed NOTICE OF SPECIAL CONTINUING APPEARANCE dated December 29, 1983, is included herein by its reference.

II. The previously filed DECLARATION dated December 29, 1983, is included herein by its reference.

III. The previously filed JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY dated December 29, 1983, is included herein by its reference.

IV. On January 6, 1984, at 10:00 A.M. in Division 18 of the above-entitled Court, JEREMY MYER asserted that:

A. He is the owner of the subject property by purchasing it on October 28, 1983, at the Trustee's Sale.

B. He had filed suit in Superior Court regarding the purchase, and that such suit is also a RIGHTs issue.

C. He raised all submitted NOTICEs,

MOTION and DECLARATION.

D. The Unlawful Detainer action was improper and insufficient since the named Defendant JOHN RAY WOELKE had not been served and had no association with JEREMY MYER.

E. He is in possession of the subject property, NOT WOELKE.

F. He was appearing SPECIALLY and not generally, and that he is NOT a defendant in the action due to the foregoing and due to the submitted written documentation/evidence.

V. JUDICIAL NOTICE and other appropriate NOTICE is to be taken of the NOTICE OF PENDING ACTION (CCP § 409) filed with the Orange County Recorder, copy attached as EXHIBIT "A" and included herein by its reference.

A. Said NOTICE was filed in Superior Court on December 9, 1983, as part of

the aforementioned suit in IV B, above.

B. Said NOTICE invalidates this Unlawful Detainer action, and Plaintiff and Plaintiff's attorneys were well aware of same and are misusing the Court in this matter. The Lis Pendens MUST be adjudicated BEFORE Plaintiff can assert any Unlawful Detainer action on the subject property, particularly since said action was brought against WOELKE and NOT MYER, and...

VI. Since JEREMY MYER is NOT WOELKE, and since he is NOT a DOE and/or DOE 1, and could not be under the circumstances, and since Defendants are named as JOHN RAY WOELKE, and DOES 1 through 10, inclusive, but are NOT JEREMY MYER, JEREMY MYER has NOT been served, appears SPECIALLY herein, AND IS NOT A DEFENDANT.

The Unlawful Detainer action is, therefore, a fraud upon the Court and improper

use of the Court, and, coupled with the status of JEREMY MYER as Owner of the subject property, the Lis Pendens action and the Superior Court suit, there is no jurisdiction over the person of JEREMY MYER and/or the subject property for the Unlawful Detainer action to not only continue, but to have been brought in the first place. Therefore, JEREMY MYER respectfully demands that the Court consider that denial of the MOTION (demand) TO QUASH the Unlawful Detainer was in error.

VII. JUDICIAL and other appropriate NOTICE is to be taken that JEREMY MYER received the PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO MOTION TO QUASH SERVICE...filed with the Court on JAN 4 1984 AFTER the proceedings on January 6, 1984. He did not, therefore have any opportunity to address the

issues therein since he had no foreknowledge of them. Neither was he served with it in open Court, or in any other way made properly cognizant of the subject matter therein. However, referencing said MEMORANDUM, appropriate JUDICIAL and other NOTICE is to be taken that:

A. PACIFIC...did not become the owner of the subject property...on October 28, 1983, upon sale at a foreclosure sale, and that any issuance of a trustee's deed in PACIFIC FEDERAL'S favor is fraudulent and the result of collusion, and is part of the suit brought by JEREMY MYER in Superior Court to adjudicate the relevant issues.

B. The 'three-day' notice to quit, its service, its substance, and its Declaration of Service of Notice to Tenant (included in Plaintiff's MEMORANDUM) are conspiratorially fraudulent and

deceitful (PC § 182, among others) as follows:

1. JOHN RAY WOELKE, & DOES 1-5 were, and are not tenants at 4358 Addington Drive, Anaheim CA, according to the EXHIBIT dated "11-23-83", and Plaintiff had been advised of this via correspondence from JEREMY MYER dated October 28 and 31, 1983, which is all part of the aforementioned Superior Court suit. CCP § 1162 has been violated.

2. There was no posting 'a copy for each said tenant on 11-25-83 at 9:48 AM, etc.,' and, as asserted previously, there was someone of suitable age and discretion at the subject address,...but such person was <u>not</u> WOELKE or anyone associated with him....

3. Since WOELKE was and is not residing as a tenant or otherwise at the subject address, no mail delivery could

be affected and, indeed, did not occur.

4. The Process Server signed the DECLARATION OF SERVICE OF NOTICE TO TENANT as "S. Horvath". The individual who was advised on November 25, 1983, at 1:50 P. M. that WOELKE was not there and that he was not a tenant was someone who identified himself as "FRANK TURNER".

5. The signature of "S. HORVATH" under penalty of perjury, etc., is, therefore, a violation of such sworn statement.

6. For all of the assertions included in the foregoing from the beginning of this JUDICIAL NOTICE, including the evidence in the items referenced in I, II, and III above.

7. Plaintiff and Plaintiff's attorney are using this Unlawful Detainer action unlawfully and fraudulently to harass JEREMY MYER after his constructive

notices to them, as well as his purchase of the subject property.

8. There was and is no rental agreement in force between JOHN RAY WOELKE and Plaintiff, and there is no landlord/tenant relationship applicable to either the three-day notice to quit or the Unlawful Detainer.

9. There was and is no rental agreement in force and effect between JEREMY MYER and Plaintiff or anyone else regarding this action, and there is no landlord/tenant relationship applicable to either the three-day notice to quit or the Unlawful Detainer action.

10. Plaintiff's complaint fails to state a cause of action in that it shows on its face that the three-day notice does not demand the precise amount of 'rent' due, and neither can it since there is no landlord/tenant relationship

involved in said notice or in this action. Where an insufficient three-day notice is served, the complaint fails to state a cause of action (Baugh v. Consumers Associates, Ltd. (1966) 241 Cal. App. 2d 6722, 675; 50 Cal.Rptr. 822). Strict compliance with the statutory provisions relating to the three-day notice to quit is a prerequisite to seeking the summary remedy of unlawful detainer (Baugh..., supra). Since the DECLARATION OF SERVICE OF NOTICE TO TENANT is a DECLARATION that a 'TENANT' was served, then that MUST be the intent of the three-day notice, the Process Server, and Plaintiff and Plaintiff's Attorney. Since there was and is no landlord/tenant relationship among any of the parties hereto, and since JEREMY MYER is not a Defendant in this action, said three-day notice to quit must fail,

its service of process was insufficient, and the Unlawful Detainer action has no basis/jurisdiction to proceed. Neither is there any kind of tenant/subtenant relationship for the three-day notice to quit to be effected, including the respective DECLARATION. Hence, this Unlawful Detainer action must fail and is null and void from its inception: IT MUST BE QUASHED.

C. ...lack of jurisdiction extends not only to to the named defendant, but also to the ""owner"" JEREMY MYER, AND to the subject property. Since the named defendant is not a proper defendant as evidenced completely by the foregoing, there is no jurisdiction over him. Since JEREMY MYER is the ""owner"" as evidenced by the foregoing, then it must be invalid to bring an Unlawful Detainer against him and there is no jurisdiction here,

either. And since the subject property is the subject of another suit between JEREMY MYER and the Plaintiff and others in Superior Court, then there is no jurisdiction over the subject matter in this case since such is to be adjudicated elsewhere...there is no jurisdiction for the Court to entertain this Unlawful Detainer action: Where and who is the Defendant? Where and who is the tenant? How can Pacific Federal entertain a three-day notice to quit and Unlawful Detainer action against the ""owner""? (Legally, that is.)

D. PLAINTIFF ERRS IN REFERENCING JEREMY MYER AS "DEFENDANT" throughout PLAINTIFF'S MEMORANDUM. JEREMY MYER IS NOT THE OR A DEFENDANT, AND THE RECORD CLEARLY shows this. JEREMY MYER, attempting to clarify for the Court the entire situation, to document the rela-

tionship(s) of the parties (or, better stated, THE LACK OF THE RELATIONSHIPS), to assist the Court in this matter, appeared SPECIALLY (and NOT generally).

E. ...the term 'lack of jurisdiction'....Black's Law Dictionary, Fifth Edition, defines the term as:

> The phrase may mean lack of power of a court to act in a particular manner or to give certain kinds of relief. In re Rowe's Estate, 66 Cal. App. 2d 594, 152 P. 2d 765, 770. It may consist in court's total want of power to act at all, or lack of power to act in particular case because conditions essential to exercise of jurisdiction have not been complied with, or may consist of lack of jurisdiction over subject matter or over person.

Plaintiff believes that jurisdiction was conferred on the Court because "A COPY OF THE SUMMONS AND COMPLAINT WERE LEFT AT DEFENDANT'S DWELLING HOUSE PURSUANT TO SECTION 415.20 (b) OF THE CODE OF CIVIL PROCEDURE." As all of the evidence and

documentation shows, JEREMY MYER is NOT a defendant herein. The Defendant was not served at his dwelling house, the service was insufficient, etc., etc., etc., as previously stated. OTHERWISE, Plaintiff could serve the paperwork as he did on anyone at any address and claim that a valid Unlawful Detainer action was afforded, with its associative jurisdiction. In the quotation from CCP § 415.20 (b) such person must mean (for this action) WOELKE and some such person associated with him. IT CANNOT MEAN JEREMY MYER SINCE PLAINTIFF HAD AT LEAST CONSTRUCTIVE NOTICE SOME TIME PRIOR OF HIS POSSESSION AND OCCUPANCY OF THE SUBJECT PREMISES and therefore, his exclusion by Plaintiff as a named defendant and the inclusion of WOELKE, et al, MUST be construed to prove that he is not a defendant, and, in conjunction with the facts as stated, there

is no lawful Unlawful Detainer action for the Court to pursue or consider hence, NO JURISDICTION....There is no CC procedure for JEREMY MYER to proceed wit in his status relevant to the situation hence his SPECIAL APPEARANCE....

Leaving of the summons and com plaint in the mailbox is not proper mailing (by first-class mail, postag prepaid), and, in fact, such proper mail ing did not occur. Leaving the summon and complaint in the mailbox is a viola tion of postal regulations since mail boxes are to be used for proper deliver of mail by the postal service. Thus defendant has NOT been served pursuant t CCP § 415.20(b) and, once again, ther is no defendant in this action.

F. ...In an Unlawful Detaine action, the Plaintiff MUST prove that landlord/tenant relationship exis

(Klein v. Loeffler (1929) 96 Cal.App. 383, 385; 274 P. 373)....there is no such relationship, and Plaintiff has failed to prove same....

....

X. Generally, Plaintiff's complaint fails to state a cause of action in that it fails to prove that a landlord-tenant relationship exists between the parties:

> A complaint in an unlawful detainer proceeding must plead the fact that a landlord-tenant relationship exists between the parties. (Fredericksen v. McCosker (1956) 143 Cal.App.2d 114, 117-118; 299 P.2d 908)

XI. Owner JEREMY MYER OBJECTS AND TAKES EXCEPTION TO THE DENIAL OF THE PREVIOUSLY SUBMITTED MOTION (demand) TO QUASH SUMMONS AND COMPLAINT.

XII. Owner JEREMY MYER OBJECTS AND TAKES EXCEPTION TO PLAINTIFF AND PLAINTIFF'S ATTORNEYS PROCEEDING AS THEY HAVE WITH THIS ACTION WHEN THE RECORD AND THEIR

RECORDS SPEAK TO THE FACTS WHICH AR
CONTRARY TO THEIR ACTIONS.

FOR GOOD CAUSE SHOWN, JEREMY MYE
RESPECTFULLY DEMANDS THE COURT TO QUAS
THE UNLAWFUL DETAINER SERVICE OF SUMMON
AND COMPLAINT AND ANY AND ALL FURTHE
PROCEEDINGS FOR LACK OF JURISDICTION.

I, JEREMY MYER, True Owner of the subjec
property and occupant thereof, do declar
and affirm that the foregoing is true an
correct to the best of my knowledge an
belief.

Dated: January 12, 1984.

Respectfully submitted,

Jeremy Myer
Owner, In Propria Persona

83-561198

Recorded at request of, and to be returned when recorded to:

RECORDED IN OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA
-1010AM DEC 9 '83
Lee A Branch COUNTY RECORDER

JEREMY MYER
16783 Beach Boulevard
Huntington Beach, CA 92647

Plaintiff
In Propria Persona

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

JEREMY MYER, Plaintiff,	)	Civil Action No. 41-72-38
v.	)	
GLENN L. RAGLAND, et al., Defendants.	)	NOTICE OF PENDING ACTION [CCP § 409]

NOTICE IS HEREBY GIVEN that the above-entitled action concerning and affecting real property as described herein was commenced on November 30, 1983, in the above-named court by JEREMY

EXHIBIT "A"

MYER, Plaintiff, against Glenn L
Ragland, Sandie Armenta, Steven R
Cameron, T.D. Service Company, Mar Vist
Financial Inc., Kenneth C. Bovard
Pacific Federal Savings and Loa
Association, and Does 1-100, Defendants
the action is now pending in the above
named court.

The action concerns real propert
situated in Orange County, California.

The street address of the subjec
property is:

4358 Addington Drive, Anaheim, CA 92807

The legal description of the subjec
property is:

> Lot 5 of Tract 6375, in the City
> of Anaheim, County of Orange,
> State of California, as per map
> recorded in book 233, pages 31 ar
> 32, Miscellaneous Maps, in the
> office of the county recorder of
> said county.

EXHIBIT "A"

....

(Note: The above legal description is as per the NOTICE OF TRUSTEE'S SALE, EXHIBIT "A", page 2, attached to the COMPLAINT.)

The object of plaintiff's action in this matter is to protect the right, title, and interest in the subject property in good faith and with proper purpose, in accordance with his bidding and purchase at the Trustee's Sale on October 28, 1983, as detailed and specified in the COMPLAINT in the action commenced on November 30, 1983, as noted in the first paragraph hereof above.

Dated: December 7, 1983.

Jeremy Myer

ACKNOWLEDGEMENT

State of California)
ss.
County of Orange)

EXHIBIT "A"

83-561198

On this 7th day of Dec., in the year 1983, before me Daniel P. Mitcham, personally appeared JEREMY MYER, personally known to me to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

Dated: Dec. 7th, 1983.

Daniel P. Mitcham

OFFICIAL SEAL
DANIEL P. MITCHAM
Notary Public-California
Principal Office in
Orange County
My Commission Expires
Dec. 14, 1984

EXHIBIT "A"

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	
v.	Civil Action No. A 73032
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	

MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION (CCP Sec. 1167.4 (a), 418.10(a))

COMES NOW THE OWNER OF THE SUBJECT PROPERTY, JEREMY MYER, a Defendant herein by virtue of service of Summons and Complaint received by said Defendant and other Defendants on the evening of January 19, 1984, and whose sole purpose is to challenge the JURISDICTION of this Court over the Owner/Defendant IN PERSONAM and IN REM, and to DEMAND respectfully that the Complaint brought by the Plaintiff be quashed, dismissed,

abated, overthrown, vacated, annulled, and in all other ways made void for LACK OF JURISDICTION.

JEREMY MYER also appears for those identified in open court on January 20, 1984, as DOES 1 and 3, since they are members of his household/family.

POINTS AND AUTHORITIES

I.

INTRODUCTION

On October 28, 1983, Owner/Defendant JEREMY MYER successfully bid for in accordance with all of the terms and conditons of the NOTICE OF TRUSTEE'S SALE and in accordance with LAW and became the true Owner of certain real property located at 4358 Addington Drive, Anaheim, California, hereinafter referred to as the "subject property".

With correspondence dated October 28, 1983, and October 31, 1983, Owner/

Defendant JEREMY MYER properly noticed Plaintiff herein (and others) of his claim, including the statement: I also notify you that I am in possession of said property,....

JEREMY MYER received replies to his correspondence, which effectively ackmowledged their receipt. One of the replies was from Plaintiff's herein Senior Vice President and General Counsel.

On November 30, 1983, JEREMY MYER filed a seven causes of action COMPLAINT as Plaintiff therein against Plaintiff herein (and others) IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF ORANGE, pertinent to his purchase of the subject property. Said COMPLAINT is CASE NO. 41-72-38, and also advised of his resident/occupancy of the premises.

Said COMPLAINT includes as EXHIBITS

the NOTICE OF TRUSTEE'S SALE aforementioned herein, as well as the abovementioned correspondence of October 28th and 31st, 1983, as copies of same.

Said COMPLAINT is comprised of some 43 pages, of which Plaintiff and Plaintiff's Attorney each have received a set. It is not included herein only due to its bulk, but JEREMY MYER will provide a copy to the Court on January 27, 1984, or as soon thereafter as this matter may be heard.

On December 9, 1983, JEREMY MYER had recorded in the Orange County Recorder's Office, and then filed as part of the aforementioned suit in SUPERIOR COURT, a NOTICE OF PENDING ACTION (CCP Sec. 409), a copy of which is attached hereto as EXHIBIT "A" and is included herein by its reference.

JUDICIAL NOTICE is to be taken of

the JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY filed with this Court on December 29, 1983.

JUDICIAL NOTICE is to be taken of the JUDICIAL NOTICE, etc., filed with this Court on January 13, 1984.

II.

IF TITLE IS INEVITABLY IN ISSUE IN AN UNLAWFUL DETAINER ACTION, THE ACTION IS NOT WITHIN THE JURISDICTION OF THE MUNICIPAL COURT

Asuncion v. Superior Court
(1980) 108 Cal. App.3d 141, 146;
166 Cal. Rptr. 306.

Title is clearly in issue in this case and, therefore, this Court has no jurisdiction to allow this Unlawful Detainer action to proceed or to lie.

Furthermore, the above-cited Asuncion case includes the issue of due process guarantees relative to affirmative defenses "which if proved would maintain...possession and ownership."

Such is the issue in the SUPERIOR COURT suit aforementioned.

III.

A MOTION TO QUASH SERVICE OF SUMMONS IS PROPER IN AN UNLAWFUL DETAINER PROCEEDING (CCP Sec. 1177).

IV.

ON OR BEFORE THE LAST DAY OF HIS/HER TIME TO PLEAD, OR WITHIN SUCH FURTHER TIME AS THE COURT MAY FOR GOOD CAUSE ALLOW, A DEFENDANT MAY SERVE AND FILE A NOTICE OF MOTION TO QUASH SERVICE OF SUMMONS ON THE GROUND OF LACK OF JURISDICTION OF THE COURT OVER HIM/HER (CCP Sec. 418.10(a)(1)).

V.

A "LIS PENDENS" IS FOR THE PURPOSE OF GIVING NOTICE OF THE JURISDICTION OR CONTROL WHICH THE COURT ACQUIRED OVER PROPERTY INVOLVED IN A SUIT PENDING THE CONTINUANCE OF THE ACTION

State v. Washington Dredging & Improvement Co., 86 P. 936, 938; 43 Wash. 508, adopting definition in Washington Dredging & Improvement Co. v. Kinnear, 64 P. 522; 24 Wash. 405.

As noted in the INTRODUCTION... JEREMY MYER has filed a NOTICE OF PENDING

ACTION in the SUPERIOR COURT which has effectively conveyed jurisdiction to said court until the matter is adjudicated.

VI.

> THE DOCTRINE OF LIS PENDENS HAS LONG BEEN ESTABLISHED AND RECOGNIZED AS THE GENERAL LAW OF THE LAND UPON THE BROAD PUBLIC POLICY OF MAINTAINING THE STATUS QUO OF RIGHTS AND INTERESTS IN PROPERTY INVOLVED IN LITIGATION, NOT ONLY AS BETWEEN THE PARTIES THERETO BUT AS TO THIRD PARTIES HAVING CONFLICTING INTERESTS, UNTIL THE ACTION PENDING HAS BEEN FINALLY ADJUDICATED.
>
> Cook v. Mozer, 140 N. E. 590, 592; 108 Ohio St. 30.

This Unlawful Detainer action is contrary to the long established LIS PENDENS DOCTRINE of "maintaining the status quo of rights and interest...until the action pending has been finally adjudicated".

FOR GOOD CAUSE SHOWN, JEREMY MYER respectfully requests the Court to quash

the Unlawful Detainer Service of Summon
and Complaint and any and all furthe
proceedings for lack of jurisdiction.

I, JEREMY MYER, True Owner of the subjec
property and occupant and possesso
thereof, do declare and affirm that th
foregoing is true and correct to the bes
of my knowledge and belief.

Dated: January 24, 1984.

Respectfully submitted,
Jeremy Myer
Owner/Defendant, In Pro Pe

[Attached to the above motion was MYER'
DECLARATION stating: his ownership, pur
chase, and possession of the subjec
property; the inapplicability of th
Unlawful Detainer action; his Superio
Court case 41-72-38 for title and th
related NOTICE OF PENDING ACTION re
included as EXHIBIT "A" (see previously
and his re-challenge to the Court
jurisdiction.]

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	)	Civil Action No. A 73032
v.	)	JUDICIAL NOTICE
JOHN RAY WOELKE, et al Defendants.	)	

NOTICE OF OBJECTIONS
VIOLATIONS OF DUE PROCESS AND RIGHTS

TO: CLERK OF THE COURT

Defendant/Owner Jeremy Myer was not heard on his Motion to Quash filed with Court on January 24, 1984, to be heard on January 27, 1984, in accordance with CCP after being re-served with Summons and Complaint on evening of January 19, 1984, as specified in Notice of Motion. I claim, hereby, violations of due process, violations of rights, abuse of process, and I waive none of my rights, and claim all of them.

JEREMY MYER objects hereby to these proceedings and that he has not been sufficiently heard in this matter wherein, among other issues, where title is the ultimate issue, the Municipal Court has no jurisdiction; also, there is no landlord/tenant relationship.

Dated: January 27, 1984
10:55 a.m.

Respectfully submitted,

Jeremy Myer

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	Civil Action No. A 73032 MOTION TO VACATE JUDGEMENT (CCP Sec. 663, 663a)

DEMAND FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW.

COMES NOW THE OWNER/DEFENDANT OF THE SUBJECT PROPERTY, JEREMY MYER, appearing also for DOES 1 and 3 (since they are members of his household/family), to move the Court to set aside and vacate its NOTICE OF ORDER dated "1-25-84" to wit: "MOTION TO QUASH FILED 1-24-84 IS DISMISSED ON COURT'S OWN MOTION. DEFAULT MAY BE ENTERED AT PLAINTIFF'S DISCRETION."

JEREMY MYER, in said appearance and

also hereby, does respectfully demand FINDINGS OF FACT AND CONCLUSIONS OF LAW for all steps in the proceedings of this Court and Plaintiff and Plaintiff's Attorney as relevant to this Unlawful Detainer action from its inception, such to be in writing to establish the record.

JEREMY MYER does hereby assert and maintain, as he has in his previous NOTICES, DEMANDS, MOTIONS, AND DECLARATIONS, which are part of the record and of which JUDICIAL NOTICE is to be taken, that an incorrect and erroneous legal basis for the decision, not consistent with and not supported by the facts, has been rendered.

JEREMY MYER will also move the Court to enter another and different judgment consistent with BOTH the facts and THE LAW, to wit: that the Unlawful Detainer proceedings resulting from the services

of the SUMMONSES AND COMPLAINTS by Plaintiff be totally quashed, dismissed, abated, overthrown, vacated, annulled, and in all other ways made void for LACK OF JURISDICTION, such LACK OF JURISDICTION being based on the FACTS and THE LAW (including the RIGHT OF POSSESSION based on purchase and ownership IN ACCORDANCE WITH THE SUPREME LAW OF THE LAND, improper services of paperwork by Plaintiff, other improper proceedings and violations of DUE PROCESS and RIGHTS).

POINTS AND AUTHORITIES

I.

INTRODUCTION

JUDICIAL NOTICE is to be taken of the following items, which are included herein by their reference:

JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY dated and filed with the Court on December 29, 1983;

MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION and POINTS AND AUTHORITIES dated and filed with the Court on December 29, 1983;

NOTICE OF MOTION dated and filed with the Court on December 29, 1983;

NOTICE OF SPECIAL CONTINUING APPEARANCE dated and filed with the Court on December 29, 1983;

NOTICE OF HEARING and JUDICIAL NOTICE; NOTICE TO THE COURT OF ERROR; NOTICE TO PLAINTIFF'S ATTORNEY; NOTICE OF POSSIBLE FRAUD; NOTICE OF OBJECTIONS; DEMAND FOR QUASH OF SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION dated January 12, 1984, and filed with the Court on January 13, 1984;

NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION dated and filed with the Court on January 24, 1984.

II.

A MOTION TO QUASH SERVICE OF SUMMONS IS PROPER IN AN UNLAWFUL DETAINER PROCEEDING (CCP Sec. 1177).

Owner/Defendant was correct to file motions and demands to QUASH FOR LACK OF JURISDICTION, even at the stage after the

service of the SUMMONSES and COMPLAINTS served on the evening of January 19, 1984, (around 7:00 P.M.) since "DOE 1" was re-served thereby (re-starting the 'clock' of the COMPLAINT), and "DOE 2" and "DOE 3" were 'served' for the first time. Even this 'service' was not in accordance with CCP Sec. 415.20 since mail service was not <u>also</u> performed for the 'DOES' not served personally. CCP 1167

This service/re-service was acknowledged in open court on January 20, 1984, by Plaintiff's Attorney, along with an AMENDMENT TO COMPLAINT which was served upon JEREMY MYER in open court that day..., and which, to the best of MYER'S knowledge and belief was not part of the official Court Record by January 31, 1984, and stil may not be.

Owner/Defendant (and his family/

household, for whom he also acted --- see CCP Sec. 371, and CCP Sec. 369 to be applied as appropriate: CCP Sec. 371 - spouse may defend for other spouse's RIGHT; CCP Sec. 369 - acting in benefi-cial interest of daughther "DOE 3") had until January 24, 1984, to answer (CCP Sec. 1167.3) or to MOTION TO QUASH SERVICE (CCP Sec. 1167.4):

> On or before the last day of his/her time to plead....a defendant may serve and file a notice of motion to quash service of summons on the ground of lack of jurisdiction of the court over him/her (CCP Sec. 418.10 (a) (1)).

The Court improperly denied the MOTION(S) and DEMANDS to QUASH, as well as granting 'default' to Plaintiff.

JUDICIAL REVIEW of the items in the INTRODUCTION above, as well as this item II, with all of the attendant blatant errors, are tantamount to harassment of the Owner/Defendant (and his family), a

well as violations of RIGHTS and DUE PROCESS. JUDICIAL NOTICE is to be taken of the JUDICIAL NOTICE, NOTICE OF OBJECTIONS, VIOLATIONS OF DUE PROCESS & RIGHTS dated and filed with the Court on January 27, 1984, and included herein by its reference.

III.

A FACT WHICH HAS EXISTED CANNOT BE MADE NEVER TO HAVE EXISTED

WHERE A SPECIFIC DUTY IS ASSIGNED BY LAW, AND INDIVIDUAL RIGHTS DEPEND UPON THE PERFORMANCE OF THAT DUTY,...THE INDIVIDUAL WHO CONSIDERS HIMSELF INJURED, HAS A RIGHT TO RESORT TO THE LAWS OF HIS COUNTRY FOR A REMEDY

THE VERY ESSENCE OF CIVIL LIBERTY CERTAINLY CONSISTS IN THE RIGHT OF EVERY INDIVIDUAL TO CLAIM THE PROTECTION OF THE LAWS WHENEVER HE RECEIVES AN INJURY

(The above from:
Marbury v. Madison, 5 US 137.)

WHERE RIGHTS ARE INVOLVED, THERE CAN BE NO RULE-MAKING OR LEGISLATION WHICH ABROGATES THEM.
(Miranda v. Arizona
384 US 436.)

Thus, even the summary proceedings of an Unlawful Detainer action cannot violate RIGHTS. Neither can the Real Estate Code, the Business and Professions Code, the Rules of Court, nor any other rules, regulations, and statutes. JUDICIAL NOTICE is to be taken of THE CONSTITUTION OF THE UNITED STATES, and particularly the Supremacy Clause of Article VI, Clause 2, and the Constitution of the State of California, particularly Article I, Section 1, 7 (a) and (b), 24, and Article III, Section 1.

> THE GOVERNMENT OF THE UNITED STATES HAS BEEN EMPHATICALLY TERMED A GOVERNMENT OF LAWS AND NOT OF MEN. (Marbury v. Madison, supra.)

And all LAWS and their application must conform to the SUPREME LAW first and foremost, otherwise their application may subvert and otherwise overthrow such SUPREME LAW (of which ALL JUDGES are

bound thereby).

> MOREOVER, THE CONSTITUTION IS AN AGREEMENT OR COMPACT BETWEEN EACH INDIVIDUAL OF THE PEOPLE AND ALL THE REST, AS WELL AS BETWEEN EACH ONE OF THE STATES AND ALL THE OTHERS.
> (Cook v. Moffat
> 12 L. Ed. 159, 161.)

> WE THE PEOPLE OF THE UNITED STATES ...DO ORDAIN AND ESTABLISH THIS CONSTITUTION FOR THE UNITED STATES OF AMERICA. (Preamble)

IV.

> (0)NE WHO SEEKS THE SUMMARY REMEDY OF UNLAWFUL DETAINER ALLOWED BY THE STATUTE MUST BRING HIMSELF CLEARLY WITHIN ITS TERMS (Horton-Howard v. Payton, (1919) 44 Cal. App. 108, 112; 186 P. 167.)

Continual violations of service, insufficiency of service, and related matters cannot bring one --- the Plaintiff, in this case --- "clearly within its terms".

> The failure to properly serve (three-day quit) notice on persons recognized as tenants in possession of the premises requires a judgment in their favor in the unlawful

detainer action.
(Kwok v. Bergren, (1982)
130 Cal. App. 3d 596, 600;
181 Cal. Rptr. 795).

Owner/Defendant has previously brought to the Court's attention the insufficiency of service of the three-day quit notice and related improprieties.

> Where an insufficient three-day notice is served, the complaint fails to state a cause of action.
> (Baugh v. Consumers Associates, Ltd. (1966)
> 241 Cal. App. 2d 672, 675;
> 50 Cal. Rptr. 822).

> Strict compliance with the statutory provisions relating to the three-day notice to quit is a prerequisite to seeking the summary remedy of unlawful detainer. (Baugh, supra).

Plaintiff failed to assert and prove that the relationship of landlord/tenant exists, because it doesn't:

> In an unlawful detainer action, the Plaintiff must prove that a landlord/tenant relationship exists.
> (Klein v. Loeffler (1929)
> 96 Cal. App. 383, 385; 274 P. 373).

A complaint in an unlawful detainer

proceeding must plead the fact that a landlord-tenant relationship exists between the parties. (Fredericksen v. McCosker (1956) 143 Cal. App. 2d 114, 117-118; 299 P. 2d 908).

V.

If title is inevitably an issue in an unlawful detainer action, the action is not within the jurisdiction of the municipal court. (Asuncion v. Superior Court (1980) 108 Cal. App. 3d 141, 146; 166 Cal. Rptr. 306).

And where there is no jurisdiction, there is no proper, valid, lawful or legal authority to proceed:

....mere good faith assertions of jurisdiction have been abolished. (Owens v. City of Independence 100 S. Ct. 1398).

No officer can acquire jurisdiction by deciding that he has it. The officer, whether judicial or ministerial, decides at his peril. (Middleton v. Low, 30 Cal. 596).

JUDICIAL NOTICE is to be taken of Title 42 of the UNITED STATES CODE, Sections 1981 through 1986,....

VI.

JUDICIAL NOTICE is to be taken
the LIS PENDENS doctrine as previous
documented by Owner/Defendant, as well
his claim to title and that Plaintiff
perfection of title is a fraud (to
adjudicated in other proceedings).

I, JEREMY MYER, True Owner of the subje
property and occupant and possess
thereof, do declare and affirm that t
foregoing is true and correct to the be
of my knowledge and belief.

Dated: February 10, 1984.

Respectfully submitte

Jeremy Myer
Owner/Defendant
In Propria Persona

DELARATION

I, JEREMY MYER, Owner of the subje
property in this case, Declare that:

1. JUDICIAL NOTICE IS TO BE TAKEN OF THE DECLARATIONS dated and filed with the Court on December 29, 1983, and January 24, 1984, and that they are included herein by their reference.

2. I affirm that the foregoing is true and correct to the best of my knowledge and belief.

Dated: February 10, 1984.

Jeremy Myer
Declarant

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

JEREMY MYER, Petitioner, v. THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	Civil Actio No. 42-14-4

EMERGENCY PETITION

FOR WRIT OF MANDATE/PROHIBITION/
JUDICIAL REVIEW/JUSTICE

EX PARTE
(CCP Sec. 1085, 1086, 1102, 1103, 1107)

[NOTE: The EMERGENCY PETITION had an EXHIBITS package attached with copies o all appropriate EXHIBITS following (no reproduced here). Some appear previously in this Petition for Writ of Certiorar as appropriate pleadings. The EXHIBI id's have been retained for reference t the original package, where appropriate.

....

4. A SUMMONS and COMPLAINT for Un lawful Detainer was issued by [Pacific

against JOHN RAY WOELKE, and DOES 1 - 10, inclusive. That COMPLAINT...(...placed in [Myer's] mailbox (not mailed) on December 26, 1983). (EXHIBIT "A" in EXHIBITS package herewith).

5. On December 29, 1983, [Myer] filed with the Respondent's Court a NOTICE OF SPECIAL CONTINUING APPEARANCE, NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION, POINTS AND AUTHORITIES, DECLARATION, JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY, VERIFICATION and PROOF OF SERVICE BY MAIL, essentially challenging the proceedings of the Unlawful Detainer action and the jurisdiction of the Respondent's Court due to [Myer's] claim of ownership/purchase of the subject property, [Myer's] occupancy/possession of the subject property, and other relevant items. The

December 29, 1983, filings of t
NOTICES, MOTION, etc., are part of t
EXHIBITS package submitted...as EXHIB
"B",....

6. On January 4, 1983, [Pacifi
filed with the Respondent's Court
PLAINTIFF'S MEMORANDUM OF POINTS A
AUTHORITIES IN OPPOSITION TO MOTION
QUASH SERVICE OF SUMMONS AND COMPLAI
FOR LACK OF JURISDICTION (which was r
ceived by [Myer] on January 8, 1984, t
(2) days after the hearing). (EXHIBIT "
in the EXHIBITS package...).

7. The MOTION TO QUASH was deni
by the Respondent's Court on January
1984, as supported by the CIVIL MINU
SHEET and the NOTICE OF ORDER (EXHIB
"D" in the EXHIBITS package...).

8. ....

9. On January 13, 1984, [Myer] fil
with the Respondent's Court a NOTICE

HEARING JUDICIAL NOTICE, NOTICE TO THE COURT OF ERROR, NOTICE TO PLAINTIFF'S ATTORNEY, NOTICE OF POSSIBLE FRAUD, NOTICE OF OBJECTIONS, DEMAND FOR QUASH OF SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION, all as SPECIAL APPEARANCE (again), re-raising the issues in the herein item 5, above, (EXHIBIT "B"), and including the insufficiency of the Unlawful Detainer action, the jurisdiction of the subject property having been placed in the Superior Court of Orange County, California, due to an appropriate pending action, the lack of any Landlord/Tenant relationship pertinent to the action and the lack of... [Pacific's] having a valid cause of action in the Unlawful Detainer since such Landlord/Tenant relationship was not proven and [Myer's] claim to ownership/occupancy/possession of the subject property, and

related items. ([Myer's] filings i
Respondent's Court related to this item
are EXHIBIT "F" in the EXHIBITS packag
...)....

10. On the evening of January 19
1984, three (3) SUMMONSES and COMPLAINT
were given to [Myer's] spouse (by tw
Process Servers, who at first represente
that they were from The Register). Thes
are EXHIBIT "G" in the EXHIBITS packag
.... Judicial Notice is to be taken o
the respective "DOE 1", "DOE 2", an
"DOE 3" fictitious name identifiers, a
well as the changes of them which ar
as they were received. Judicial Notice i
also to be taken of the fact that th
first SUMMONS and COMPLAINT (EXHIBIT "A"
shows "DOE 1"; thus "DOE 1" wa
essentially being served again. It is a
this point, assuming valid service whic
is not presumed due to the misrepresenta

tion of Process Servers, that "DOE 1" could respond anew in accordance with CCP Sec. 1167.3 (Time to Answer) or CCP Sec. 1167.4 Motion to Quash Service. Also, "DOE 2" and "DOE 3", not having been served previously, could now respond for the first time which they did in [Myer's] filings as the head of the household.

11. Judicial Notice is to be taken that [Myer] challenged the sufficiency of service at the hearing on January 20, 1984, in Respondent's Court due to the misrepresentation of the Process Servers. Also, [Myer] challenges the sufficiency of service of the item 10 SUMMONSES and COMPLAINTS, as well as that of item 4, above, since no mailings were ever received in accordance with CCP Sec. 1162 for the Three-Day Notice to Quit (PRIOR to receiving any SUMMONSES and COMPLAINTS), CCP Sec. 415.10 or 415.20,

or any other CCP Section which may
appropriate. Also, to the best
[Myer's] knowledge and belief, the fil
record in the Court of the Responde
fails to show any Proof of Service f
the item 10 SUMMONSES and COMPLAINTS, a
it also fails to show any sufficie
Proof of Service for that of item
above.

12. At the hearing on January 2
1984, [Pacific's] Attorney verbally not
in OPEN COURT during the proceedings th
[Myer] had been 're-served' the previo
evening in order to 'forget' the pri
service(s) which had been document
(with their respective insufficiencie
by [Myer] in his filings (EXHIBITS "
and "F"). Also, said Attorney serv
[Myer] in OPEN COURT during the procee
ings with the AMENDMENT TO COMPLAI
which is EXHIBIT "H" in the EXHIBI

package....Said AMENDMENT specifically identifies [Myer] as "DOE 2", who was not previously served even though [Myer] was previously known as the record shows. [Myer's] spouse is identified as "DOE 1", while [Myer's] daughter (name mis-spelled) is identified as "DOE 3" FOR THE FIRST TIME. Judicial Notice is to be taken of these facts, as well as that said AMENDMENT TO COMPLAINT is not part of the Court Record of Respondent (to the best of Petitioner's knowledge and belief as of January 27, 1984).

13. At the hearing on January 20, 1984, the JUDICIAL NOTICE and DEMAND FOR QUASH was not ruled on. The "Motion to quash denied" is as per the CIVIL MINUTE SHEET (EXHIBIT "I" in the EXHIBIT package ...).

14. ....

15. On January 24, 1984, [Myer]

filed with Respondent's Court a NOTICE O
MOTION AND MOTION TO QUASH SERVICE O
SUMMONS FOR LACK OF JURISDICTION (CC
Sec. 1167.4(a), 418.10(a)); POINTS AN
AUTHORITIES; DECLARATION;...in prope
procedural response to the item 10
above, SUMMONSES and COMPLAINTS (EXHIBI
"G"). [Myer's] filings in this item 1
are EXHIBIT "K" in the EXHIBITS packag
....[Myer] re-raised the issues raised b
him previously via appropriate JUDICIA
NOTICE, and stressed the LACK OF JURIS
DICTION of the Respondent's Court due t
the TITLE ISSUE with its appropriat
Pending Action in the Orange Count
Superior Court.

16. On January 27, 1984, [Myer] wa
not heard in open Court and subsequentl
found out that the "MOTION TO QUASH FILE
1-24-84 IS DISMISSED ON COURT'S OW
MOTION" and that "DEFAULT MAY BE ENTER

AT PLAINTIFF'S DISCRETION" as per the CIVIL MINUTE SHEET and the NOTICE OF ORDER both dated January 25, 1984, two (2) days before the scheduled hearing. Judicial Notice is to be taken of these proceedings, as well as the violations of Due Process, [Myer's] RIGHT to have been heard in accordance with the action and MOTION and the aforementioned CCP Sections, and all appropriate Rules of Court and ALL RIGHTS AS SPECIFIED AND GUARANTEED BY BOTH THE UNITED STATES CONSTITUTION AND THE CALIFORNIA CONSTITUTION. Also, Judicial Notice is to be taken of the fact that Jurisdiction can never accrue when invalid, incorrect, abusive, unlawful, and otherwise insufficient proceedings are utilized, notwithstanding any other reasons for THE LACK OF JURISDICTION for the Unlawful Detainer action to have been brought in the first place,

let alone proceed to a 'default' judge
ment. (The CIVIL MINUTE SHEET and th
NOTICE OF ORDER are EXHIBIT "L" in th
EXHIBITS package....)

17. On January 27, 1984, [Myer] file
with the Court of the Respondent
JUDICIAL NOTICE, NOTICE OF OBJECTIONS
VIOLATIONS OF DUE PROCESS & RIGHTS
identified as EXHIBIT "M" in the EXHIBIT
package....[Myer] is not aware of any e
parte hearings or proceedings, or an
other information, except what is in th
record as detailed in this EMERGENC
PETITION, upon which the Respondent'
Court decided the issue on its own motio
without a hearing.

18. Thus, as shown above, Responder
has abused its discretion, and failed ar
refused to exercise its discretion.

19. [Myer] has a clear, present, ar
substantial right to the performance o

Respondent's duty in that [Myer] clearly documented the LACK OF JURISDICTION for the Court of Respondent in the Unlawful Detainer action due to the issue of Title, coupled with [Myer's] Superior Court suit wherein he is the Plaintiff, [MYER'S] possession/occupancy of the subject premises, the lack of any Landlord/Tenant relationship in this matter, and all other issues, including those of LAW and RIGHTS.

20. [Myer] (and his household) is a person (are persons) beneficially interested in the issuance of a writ by virtue of the fact that as owner/purchaser of the subject property, he (they) has (have) every RIGHT to its use, possession occupancy, enjoyment, etc., WITHOUT HARASSMENT, RIGHTS VIOLATIONS, DUE PROCESS VIOLATIONS, etc.

21. [Myer] has performed all condi-

tions precedent to the filing of this EMERGENCY PETITION by raising objections underlying Petition in the inferior court, as the record herein shows.

22. At all times herein mentioned, Respondent has been able to QUASH the Unlawful Detainer Action FOR LACK OF JURISDICTION. Notwithstanding such ability, and despite [Myer's] DEMANDS for the performance of the duty to QUASH THE SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION, Respondent failed and refused to perform such duty.

23. [Myer] has no plain, speedy, and adequate remedy in the ordinary course of law, other than the relief sought in this EMERGENCY PETITION, in that the Unlawful Detainer action is a Summary Proceeding the appeal of which will not automatically stay the proceedings from the 'default judgment on the court's OWN

MOTION', and especially when Respondent has refused to exercise its proper discretionary function in this matter. THEREFORE, THIS EMERGENCY PETITION IS ALSO A PETITION FOR REDRESS OF GRIEVANCES in accordance with the Constitution of the United States and the Constitution of the State of California:

> Whether Civil or Criminal, we are ALL bound to obey THE LAW.

WHEREFORE, [Myer] prays:

1. That the court issue a Writ of Mandate/Prohibition commanding Respondent to QUASH ANY AND ALL FURTHER PROCEEDINGS AND TO REVERSE ITS DEFAULT JUDGEMENT. Due to the summary nature of the action herein described, [Myer] respectfully prays the Court to determine the appropriateness of the issuance of the writ in the alternative and/or as peremptory, subsequently;

Detainer action and the Default Judg
ment, but that a Peremptory Writ of Ma
date/Prohibition should issue, then th
Court issue said Writ commanding Respon
ent to QUASH ANY AND ALL FURTHER PROCEE
INGS AND TO REVERSE ITS DEFAULT JUDG
MENT; and

5. For costs of this proceeding a
for such other and further relief as t
court deems just and proper.

Dated: January 30, 1984.

Respectfully submitte

Jeremy Myer,
Petitioner

2. Should the Court determine that an Alternative Writ of Mandate/Prohibition should issue commanding Respondent to QUASH ANY AND ALL FURTHER PROCEEDINGS AND TO REVERSE ITS DEFAULT JUDGEMENT, then Respondent should act accordingly or show cause before this Court at a time specified by Court Order why it has not done so and why a Peremptory Writ should not issue;

3. Should the Court have determined that an Alternative Writ should issue, then on the return of said Writ and the hearing of this Petition, this Court issue its Peremptory Writ of Mandate/ Prohibition commanding Respondent to QUASH ANY AND ALL FURTHER PROCEEDINGS AND TO REVERSE ITS DEFAULT JUDGEMENT;

4. Should the Court have determined that an Alternative Writ should not issue due to the summary nature of the Unlawful

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

JEREMY MYER, Petitioner, v. THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest	Civil Acti No. 42-14-

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EMERGENCY PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW/JUSTICE

EX PARTE

(CCP Sec. 1085, 1086, 1102, 1103, 1107

I.

A WRIT OF MANDATE SHOULD ISSUE....

Writ of Mandate.

A Writ of Mandate may issue from a court, except a municipal or justi court, to any inferior tribunal,... person to compel the performance of

act which the law specifically enjoins as a duty from an office, trust, or station or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled and from which the party is unlawfully precluded. The Writ must be issued in all cases where there is no plain, speedy, and adequate remedy in the ordinary course of the law on the Verified Petition of the party beneficially interested (CCP Sec. 1085, 1086).

II.

A WRIT OF PROHIBITION SHOULD ISSUE....

Writ of Prohibition.

A Writ of Prohibition may issue from any court, except a municipal or justice court, to an inferior tribunal... in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. It must be issued upon the

Verified Petition of the person benefi cially interested. The Writ of Prohibi tion arrests the proceedings of an tribunal,...or person exercising judicia functions, when such proceedings ar without or in excess of the jurisdictio of such tribunal,...or person (CCP Sec 1102, 1103).

III.

FOR GOOD CAUSE, THE COURT MAY GRANT THE APPLICATION EX PARTE.

Ex Parte Writs.

The court in which the application i filed, in its discretion and for goo cause, may grant the application e parte, without notice or service of th application (CCP Sec. 1107).

IV.

A PETITION FOR WRIT OF MANDATE OR PROHIBITION MAY PROPERLY BE ISSUED...

Petitioner as Beneficially Interested

One requirement for the issuance of a Writ of Mandate or Prohibition is that it be issued on the Verified Petition of the party beneficially interested (CCP Sec. 1086, 1103).

V.

A WRIT OF MANDATE OR PROHIBITION SHOULD BE ISSUED IN THE SUBJECT CASE DUE TO THE SUMMARY PROCEEDINGS FACED BY [MYER] IN CONJUNCTION WITH THE EXCESSES OF JURISDICTION EXERCISED BY THE RESPONDENT IN THE CLEAR SHOWING OF THE FACTS AND THE SITUATION TO BE OF OPPOSITE DEMAND ACCORDING TO LAW.

[Myer] Documented the Facts and Situation.

The Unlawful Detainer action and the Default Judgement rendered therein by the Respondent when [Myer] set a hearing with NOTICE OF MOTION AND MOTION TO QUASH FOR LACK OF JURISDICTION in response to new service of SUMMONSES and COMPLAINTS shows that [Myer] needs the lower tribunal to be compelled to QUASH ALL PROCEEDINGS AND

REVERSE ITS DEFAULT JUDGEMENT, and [Mye
has no other plain, speedy, or adequa
remedy in the ordinary course of la
[Myer], as the facts show, has a benef
cial interest and is entitled to t
enjoyment of the right of possessi
along with his purchase/ownership. Due
the summary nature of the proceedings
the lower tribunal, as well as the proc
dural and jurisdictional violation
granting of the application EX PARTE
most appropriate. It is most appropria
to totally arrest the actions of t
Respondent (and [Pacific]) in this matt
(CCP 1085, 1086, 1102, 1103, 1107).

VI.

A WRIT OF MANDATE OR PROHIBITION
SHOULD BE ISSUED....

Lower Tribunal Required to Apply t
Proper Law.

A Writ of Mandate is the appropria
remedy to direct the trial court to app

the proper law (Hurtado v. Superior Court (1974) 11 Cal.3d 574, 579; 114 Cal.Rptr. 106; 522 P.2d 666). This must also hold in this situation where the lower tribunal has failed to apply the proper law and did not have jurisdiction:

> If title is inevitably in issue in an Unlawful Detainer action, the action is not within the jurisdiction of the municipal court. (Asuncion v. Superior Court (1980) 108 Cal.App. 3d 141, 146; 166 Cal.Rptr. 306).

And where there is no jurisdiction, there is no proper, valid, lawful or legal authority to proceed:

> ...mere good faith assertions of jurisdiction have been abolished. (Owens v. City of Independence 100 S.Ct. 1398).

> No officer can acquire jurisdiction by deciding that he has it. The officer, whether judicial or ministerial, decides at his peril. (Middleton v. Low 30 Cal.596).

> Where there is no jurisdiction there is no judge; the proceeding is as nothing.

(Manning v. Ketcham, 58 F.2d 948).

Also, there was no valid jurisdict
since there was no valid cause of act
by [Pacific] since there was no Landlo
Tenant relationship:

> In an unlawful detainer actio
> the Plaintiff must prove that
> landlord/tenant relationship
> exists.
> (Klein v. Loeffler (1929)
> 96 Cal.App. 383, 385; 274 P. 37

> A complaint in an unlawful deta
> er proceeding must plead the fa
> that a landlord-tenant relatio
> ship exists between the parties.
> (Fredericksen v. McCosker
> (1956) 143 Cal.App.2d 114,117-1
> 299 P.2d 908).

Since there was no landlord/tenant rela
ionship, there was no rent due, three-d
notice did not demand the precise amou
of rent due on its face, and [My
raised the issues of sufficiency of se
vice of both the three-day notice to qu
and the COMPLAINT(S) and SUMMONS(ES)
Respondent and [Pacific]:

> Where an insufficient three-day notice is served, the complaint fails to state a cause of action. (Baugh v. Consumers Associates, Ltd. (1966) 241 Cal.App.2d 672, 675; 50 Cal.Rptr. 822).
>
> Strict compliance with the statutory provisions relating to the three-day notice to quit is a prerequisite to seeking the summary remedy of unlawful detainer. (Baugh v. Consumers Associates, Ltd., supra).

JUDICIAL NOTICE IS TO BE TAKEN OF PETITIONER'S EXHIBITS "B", "F", AND "K".... Furthermore:

> The failure to properly serve (three-day quit) notice on persons recognized as tenants in possession of the premises requires a judgment in their favor in the unlawful detainer action. (Kwok v. Bergren (1982) 130 Cal.App.3d 596, 600; 181 Cal.Rptr. 795).

With the situation of [Myer] being Owner/Purchaser of the subject property, and [Pacific's] perfection of title being a fraud, and all other facts relevant to this case as part of the record herein,

it holds that:

> [O]ne who seeks the summary remedy of unlawful detainer allowed by the statue must bring himself clearly within its terms. (Horton-Howard v. Payton (1919) 44 Cal.App. 108, 112; 186 P. 167).

Furthermore, [Myer] has filed in Superior Court an appropriate action to enforce his position with respect to the subject property, and in accordance with this suit, a NOTICE OF PENDING ACTION (part of EXHIBITS "F" and "K"). Accordingly, the jurisdiction and control of the subject property rest with the Superior Court and not with the Respondent Municipal Court (and, with other items, Respondent has been noticed as to this in [Myer's pleadings):

> A "lis pendens" is for the purpose of giving notice of the jurisdiction or control which the court acquired over property involved in a suit pending the continuance of the action.

(State v. Washington Dredging & Improvement Co., 86 P. 936, 938; 43 Wash. 508, adopting definition in Washington Dredging & Improvement Co. v. Kinnear, 64 P. 522; 24 Wash. 405).

This is a fundamental concept of the lis pendens and with the doctrine of lis pendens, rights and interests of property involved in litigation must be preserved in the status quo:

> The doctrine of lis pendens has long been established and recognized as the general law of the land upon the broad public policy of maintaining the status quo of rights and interests in property involved in litigation, not only as between the parties thereto but as to third parties having conflicting interests, until the action pending has been finally adjudicated.
> (Cook v. Mozer, 140 N.E. 590, 592; 108 Ohio St. 30).

VII.

PETITIONER WAS CORRECT TO FILE MOTIONS AND DEMANDS TO QUASH FOR LACK OFJURISDICTION WITH RESPONDENT'S COURT, EVEN AT THE STAGE AFTER THE SERVICE OF THE SUMMONSES AND COMPLAINTS AS NOTED IN ITEM 10

OF THE EMERGENCY PETITION OF WHICH THIS MEMORANDUM OF POINTS AND AUTHORITIES IS IN SUPPORT.

[Myer] Properly Demanded Quash o Service of Summons and Complaint:

> A motion to quash service of sum mons is proper in an unlawfu detainer proceeding. (CCP Sec. 1177).

By serving "DOE 2" and "DOE 3" on Januar 19, 1984, and re-serving "DOE 1" on tha date (in the evening at about 7:00 p.m.) yet "DOE 1" now became "Mrs. Jeremy Myer (see EXHIBIT "H" AMENDMENT TO COMPLAINT whereas "DOE 1" was the first SUMMONS AN COMPLAINT to which...Mr. Jeremy Myer responded (see EXHIBIT "A") albei as SPECIAL APPEARANCE (see EXHIBIT "B") [Myer] (and his family/household, fo whom he also acted) had until January 24 1984, to answer (CCP 1167.3) or to MOTIO TO QUASH SERVICE (CCP 1167.4):

> On or before the last day of his her time to plead,...a defendan may serve and file a notice o

motion to quash service of summons on the ground of lack of jurisdiction of the court over him/her. (CCP Sec. 418.10(a)(1)).

[Myer] acted properly in accordance with CCP Sec. 1167.4 and 418.10(a)(1), and the Respondent's Court improperly denied the MOTION(S) and DEMANDS to QUASH as well as the granting of 'default judgement' to [Pacific].

....dated: January 30, 1984.

Respectfully submitted,

Jeremy Myer
Petitioner

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am the Petitioner to the above-entitled action or proceeding. I have read the foregoing EMERGENCY PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW/JUSTICE EX PARTE and the MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EMERGENCY

PETITION FOR WRIT OF MANDATE/PROHIBITION/ JUDICIAL REVIEW/JUSTICE EX PARTE (CCP Sec 1085, 1086, 1102, 1103, 1107); and know the contents thereof. I affirm that the same are true of my own knowledge, except to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I affirm that the foregoing is true and correct.

Executed on January 30, 1984, at Anaheim, California.

Jeremy Myer
Petitioner, In Propria Persona

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

JEREMY MYER, Petitioner,	)	
v.	)	Civil Action No. 42-14-46
THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent,	)	
PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	

PETITION FOR WRIT OF MANDATE/PROHIBITION/
JUDICIAL REVIEW/JUSTICE

(CCP SEC. 1085, 1086, 1102, 1103)

HEARING DATE: MARCH 12, 1984
TIME: 9:30 A. M.
DEPT: 23

NOTICE OF HEARING & PAPERS PREVIOUSLY
FILED AND MAILED TO RESPONDENTS AND
REAL PARTY IN INTEREST

NOTICE IS HEREBY GIVEN that the subject has been set for hearing on March 12, 1984,....

[Myer's] papers were previously filed with the Court and mailed to Repon-

dents, the Municipal Court, and Attorney for [Pacific] on January 31, 1984. Said papers are part of the Municipal Court file for the Case in question: Case No. A 73032. Said Papers are:

EMERGENCY PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW/JUSTICE

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EMERGENCY PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW/JUSTICE

EMERGENCY PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW/JUSTICE
E X H I B I T S

....

Dated: February 21, 1984.

Respectfully submitted,

Jeremy Myer
Petitioner

VERIFICATION

I am the Petitioner....

Executed on February 21, 1984,....

Jeremy Myer
Petitioner, In Pro Per

Supreme Court, U.S.
FILED
JAN 28 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

NO. _____

JEREMY MYER,

Petitioner,

v.

PACIFIC FEDERAL SAVINGS
AND LOAN ASSOCIATION,

Respondent.

SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE STATE OF CALIFORNIA SUPREME COURT

Part 2 of 4

JEREMY MYER
16783 Beach Boulevard
Huntington Beach, CA 92647
714/841-8104
Petitioner, In Pro Se

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

JEREMY MYER, Petitioner,	)	
v.	)	Civil Action No. 42-14-46
THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent,	)	(Munic. Ct. No. A 73032)
PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	

NOTICE OF MOTION FOR ORDER FOR ABATEMENT OF MUNICIPAL COURT PROCEEDINGS OR IN THE ALTERNATIVE STAY OF THE MUNICIPAL COURT PROCEEDINGS;

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF;

DECLARATION
(CCP Secs. 430.10 (a) and (c), 597)

Date: June 28, 1984 Dept: 23

TO THE MUNICIPAL COURT..., Respondent, PACIFIC..., Real Party in Interest, and to LINDA S. NUNEZ, attorney of record for Real Party in Interest:

PLEASE TAKE NOTICE THAT,...[Myer]

will move the Court for an Order for the Abatement of the Municipal Court Proceedings, or in the alternative, the Stay of the Muncipal Court Proceedings..., on the grounds that the Respondent Court had no jurisdiction of the subject of the cause of action and that there is another action pending between the same parties (and others) on the same subject matter (CASE NO. 41-72-38, Myer v. Ragland, Superior Court, Orange County, California). ....

...[Myer] seeks appropriate relief hereby from the Respondent Municipal Court Unlawful Detainer action.

....

Dated: June 1, 1984.

Jeremy Myer
Petitioner, In Pro Per

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

JEREMY MYER, Petitioner,	)	
v.	)	Civil Action No. 42-14-46
THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent,	)	(Munic. Ct. No. A 73032)
PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF MOTION FOR
ORDER FOR ABATEMENT OF
MUNICIPAL COURT PROCEEDINGS
OR IN THE ALTERNATIVE STAY OF
MUNICIPAL COURT PROCEEDINGS

(CCP Secs. 430.10 (a) and (c), 597)

Date: June 28, 1984 Dept: 23

I

INTRODUCTION & BACKGROUND

....

4. [Myer] is seeking appropriate relief from the Unlawful Detainer action ...via this MOTION FOR ORDER FOR ABATE-

MENT OF MUNICIPAL COURT PROCEEDINGS OR IN THE ALTERNATIVE STAY OF MUNICIPAL COURT PROCEEDINGS. In summary, [Myer's] position is based on the following:

(a) [Myer] is the valid and proper purchaser of the subject property at the Trustee's Sale on October 28, 1983, and, as such, he owns the subject property and his is a claim to the title.

(b) On November 30, 1983, [Myer] filed suit against [Pacific] (and others) to effect his claim of purchase and ownership, among other things....CASE NO. 41-72-38 in the Superior Court....

(c) On December 9, 1983, [Myer] caused to be recorded, filed with the Superior Court, and caused to be served a NOTICE OF PENDING ACTION (CCP Sec. 409) as part of...CASE NO. 41-72-38.

(d) [Myer's] purchase (as well as his court action) pre-dated the Unlaw-

ful Detainer action which was filed in the Respondent Court on December 19, 1983, and [Myer] maintains that service of said action (about one week later) was insufficient and improper.

(e) [Myer's] purchase, ownership and claim to the title then give him THE RIGHT TO THE POSSESSION of the subject property. It is this RIGHT OF POSSESSION of [Myer's], among other things, which invalidates the Unlawful Detainer action.

(f) Due to [Myer's] purchase, ownership, and claim to the title of the subject property, Respondent Court had and has NO JURISDICTION to have effected any proceedings or decision other than to have quashed, abated, or in another way nullified the Unlawful Detainer...since, where title is the ultimate issue, a Municipal Court has NO JURISDICTION....

(g) Due to various insufficiencies of service of the SUMMONS AND COMPLAINT and the THREE-DAY NOTICE TO QUIT, the lack of any appropriate landlord/tenant relationship, and related issues, there was no legal or lawful basis upon which the Unlawful Detainer could proceed or remain at bar.

(h) [Myer] clearly challenged the jurisdiction of Respondent Court to proceed on the above grounds and related issues, but Respondent both assumed jurisdiction, without proving same once it had been challenged, AND also decided against [Myer].

(i) ...yet Respondent recorded a decision in favor of [Pacific] AFTER SEVERAL ATTEMPTS of [Myer] to be heard properly on the issues.

....

(n) By this MOTION...[Myer] is

seeking appropriate relief from the Unlawful Detainer action.

5. Judicial Notice is to be taken of the Municipal Court records of CASE NO. A 73032 and the Superior Court records of CASE NO. 41-72-38, as well as the records filed...in this CASE...42-14-46.

II

THE COURT HAS NO JURISDICTION OF THE SUBJECT OF THE CAUSE OF ACTION ALLEGED (CCP Sec. 430.10 (a))

6. ...

> ...homeowners cannot be evicted, consistent with due process guarantees, without being permitted to raise the affirmative defenses which if proved would maintain their possession and ownership. (Asuncion v.Superior Court (1980) 108 Cal.App.3d 141,146; 166 Cal.Rptr. 306)

And since: ...title to the property is inevitably in issue in this unlawful detainer action,... the action is not within the jurisdiction of the municipal court. (Asuncion v. Superior Court supra, at 146.)

THEN: [The] court has no jurisdiction to hear or determine a case where the type of proceeding or the amount in controversy is beyond the jurisdiction defined for that particular court by statute or constitutional provision. Abelleira v. District Court of Appeal (1941) 17 Cal.2d 280, 288)

In recording and filing the NOTICE OF PENDING ACTION as part of his Orange County Superior Court suit, as well as causing it to be served (prior to the Unlawful Detainer action), [Myer] placed the subject property immediately under the jurisdiction and control of the Superior Court: the Respondent Court was, in actuality, ex-jurisdiction said property for the Unlawful Detainer action:

> A lis pendens is for the purpose of giving notice of the jurisdiction or control which the court acquires over property involved in a suit pending the continuance of the action. Washington Dredging & Improvement

Co. v. Kinnear et al. (1901)
64 Pac.Rptr. 522.

The Ohio Supreme Court effectively upheld that the doctrine of lis pendens has long been established and recognized as the general law of the land upon the broad public policy of maintaining the status quo of rights and interests in property involved in litigation, not only as between the parties thereto but as to third parties having conflicting interests, until the action pending has been fully adjudicated:

....
(Cook et al. v. Mozer (1923)
140 N.E. 590, 592.)

III

THERE IS ANOTHER ACTION PENDING BETWEEN THE SAME PARTIES ON THE SAME CAUSE OF ACTION
(CCP Sec. 430.10(c), 597)

7. Ultimately, the ownership issue of the subject property must be resolved.

That is, Orange County Superior Court CASE NO. 41-72-38 (MYER v. RAGLAND, et al., including [Pacific] as a defendant) must be fully adjudicated, the results of which will determine the validity of an unlawful Detainer action AT THAT TIME: if [Myer] prevails in that case, then the Unlawful Detainer action...will prove to have been both premature and a harassment (in the least); if MYER doesn't prevail, THEN the Unlawful Detainer will be appropriate if the subject premises are not surrendered at that time. In either event, the Unlawful Detainer action is premature.

> The controlling rule in this case, however, is that the pendency of another action growing out of the same transaction...is a ground for abatement of the second action but never for abatement of the first. (Citations) The underlying theory of the plea of another action pending is that the <u>first</u> action will normally be an ample remedy, and the <u>second</u> action...is

> therefore unnecessary and vexatious. (Our italics.) (Citations) [Italics replaced with underlines] (California Union Ins. Co. v. Trinity River Land Co. (1980) 105 Cal.App.3d 104, 108-109; 163 Cal.Rptr. 802)

NOTE: [Myer] claims to be the purchaser and owner of the subject premises. Case citations which refer to words such as "tenant" and the like should not be construed that [Myer] places himself in such a status. Such citations are used to exemplify [Myer's] stand on the issues, and will not necessarily reflect [Myer's] true status due to the nature of ALL of the issues.

IV

GROUNDS FOR ABATEMENT OR STAY OF MUNICIPAL COURT PROCEEDINGS

8. The prior suit in the Superior Court (CASE NO. 41-72-38) is ground for abatement of the action in the Respondent Court:

> It is well settled in California that the pendency of a prior action based upon the same cause, contested by the same parties and considered in the same jurisdiction, is ground for abatement of the second action.
> Hanrahan v. Superior Court

(1947) 81 Cal.App.2d 432, 435;
184 P.2d 157.

[Myer's] establishment of purchase or ownership via said Superior Court action would give him the RIGHT OF POSSESSION, and would preclude his 'ejectment':

> No...California decision...prohibits a tenant from interposing a defense which...directly relate[s] to the issue of possession and which, if established, would result in the tenant's retention of the premises.
> Green v. Superior Court (1974)
> 10 Cal.3d 616, 633;
> 111 Cal.Rptr. 704; 517 P.2d 1168.

Thus, if [Myer] establishes his ownership he cannot be removed, and:

> Where the rights of the parties to the second action cannot be properly determined until the questions raised in the first action are settled the second action should be stayed.
> Simmons v. Superior Court
> (1950) 96 Cal.App.2nd 119, 130;
> 214 P.2d 844)

....

V

THE BASIS AND PURPOSE OF THE RULE
AS TO PRIOR PENDING ACTIONS

9. Until the first action in Superior Court is settled, with its attendant purchase and ownership issues, the Unlawful Detainer action is premature, to say the least....

> The rule which forbids a later action in the same state between the same parties involving the same subject matter rests upon principles of wisdom and justice, to prevent vexation, oppression and harassment, to prevent unnecessary litigation, to prevent a multiplicity of suits,---in short, to prevent two actions between the same parties involving the same subject matter from proceeding independently of each other. (Simmons v. Superior Court (1950) 96 Cal.App.2d 119, 124-125; 214 P.2d 844)

VI

SUMMARY & CONCLUSION

10. [Myer] maintains that he purchased the subject property at the

Trustee's Sale on October 28, 1983, in full compliance with the terms and conditions of said sale. He brought suit in the Superior Court to press his claims prior to the Unlawful Detainer action. The records clearly establish that Respondent Court has and had no jurisdiction to have proceeded to any conclusion of decision against [Myer]. Such lack of jurisdiction, as well as the other issues raised herein, including pendency of prior action, multiplicity of suits, and so forth, support [Myer's] position for an Order for Abatement of the Municipal Court Proceedings, or in the alternative, for a Stay of said proceedings.

> ...while the state does have a significant interest in preserving a speedy repossession remedy, that interest cannot justify the exclusion of matters which are essential to a just resolution of the question of possession at issue.

As the Court of Appeals observed in Abstract Investment Co. v. Hutchinson (1962) 204 Cal.App.2d 242, 249 [22 Cal.Rptr. 309]:

> Certainly the interest in preserving the summary nature of an action cannot out weigh the interest of doing substantial justice. To hold the preservation of the summary proceeding of paramount importance would be analogous to the 'tail wagging the dog.'

Green v. Superior Court (1974) 10 Cal.3d 616, 636; 111 Cal.Rptr. 704; 517 P. 2d 1168.

....

Dated: June 1, 1984.

Respectfully submitted,

Jeremy Myer
Petitioner, In Pro Per

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

JEREMY MYER, Petitioner,	)	
v.	)	Civil Action No. 42-14-46
THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent,	)	
PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	(Munic. Ct. No. A 73032)

PURGATORY OATH AND DECLARATION OF
JEREMY MYER
FOR CLARIFICATION OF RECORD

Date: June 28, 1984 Dept: 23

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, JEREMY MYER, do depose and say:

1. I am the Petitioner in the above-entitled action;

2. The purpose of this Declaration is to clarify the record of the Unlawful Detainer action, including [Myer's] claim of purchase, ownership, and possession of

the subject property.

NOTE: EXHIBITS as referenced herein, unless otherwise referenced, were filed with the Court and appropriately delivered to both Respondent and [Pacific's] attorney on January 31, 1984, as an EXHIBITS package of thirteen (13) EXHIBITS, "A" - "M", for a total of some eighty-five (85) pages....

[NOTE: For this Petition to the U.S. Supreme Court, extracts of the EXHIBITS are included as appropriate pleadings above.)]

3. A SUMMONS AND COMPLAINT for unlawful Detainer...was issued by [Pacific] (via attorney) against JOHN RAY WOELKE, and DOES 1 - 10, inclusive;....

4. The SUMMONS AND COMPLAINT was placed in [Myer's] mailbox at the site of the subject property on December 26, 1983 --- it was not mailed.

5. These facts of non-mailing and insufficiency of service were made known to Respondent via [Myer's] appropriate Court filings on December 29, 1983, as can be seen from EXHIBIT "B", DECLARATION and JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY, as follows:

(a) The DECLARATION, EXHIBIT "B", page 7 of 15, item 4, states that:

> The Unlawful Detainer SUMMONS, COMPLAINT, and VERIFICATION were left in Owner's mailbox on December 26, 1983,...

(b) The JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY, EXHIBIT "B", page 11 of 15, item III O, states that:

> On December 26, 1983, a copy of the SUMMONS and COMPLAINT--Unlawful Detainer was left <u>in the mailbox</u> of the subject property.

(c) The same JUDICIAL NOTICE, etc.

EXHIBIT "B", pages 12 and 13 of 15, item V, states that:

> JUDICIAL NOTICE IS TO BE TAKEN THAT: As part of this harassment and fraud,...the SUMMONS and COMPLAINT--Unlawful Detainer...were not received by Owner/Occupant of the subject property JEREMY MYER until December 26, 1983, in the mailbox of said property --- and not by mail.

6. On December 29, 1983, [Myer] filed with Respondent Court the following items (EXHIBIT "B", fifteen (15) pages):

	EXHIBIT "B" pages
NOTICE OF SPECIAL CONTINUING APPEARANCE	1 - 2
NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION; POINTS AND AUTHORITIES; DECLARATION; DATE: January 6, 1984	3 - 4
MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION	5
POINTS AND AUTHORITIES	6
DECLARATION	7

JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY . 8 - 14

VERIFICATION AND PROOF OF SERVICE BY MAIL 15

(a) With these items, [Myer] challenged the proceedings of the Unlawful Detainer action in, and the jurisdiction of, the respondent Court due to:

(1) [Myer's] purchase and ownership of the subject property precluded him from being a Defendant lawfully.

(2) [Myer's] occupancy and possession of the subject property.

(3) [Myer's] constructive and actual notices to [Pacific] of his purchase of and claim to the subject property - such notices being:

a) Letters dated October 28, 1983, and October 31, 1983.

b) [Myer's] suit against PACIFIC FEDERAL (and other Defendants)

filed and mailed on November 30, 1983, CASE NO. 41-72-38.

c) [Myer's] Notice of Pending Action recorded, filed with the Court, and mailed on December 9, 1983, CASE NO. 41-72-38.

(4) [Myer] made a "SPECIAL APPEARANCE" in Respondent Court to explain his purchase and ownership of the subject property.

(5) [Myer] challenged the perfection of title and certain items on the Unlawful Detainer COMPLAINT as being fraudulent, including item 9 thereon which attested to proper service of the Three-Day Notice to Quit.

(6) [Myer] challenged the sufficiency of the Three-Day Notice to Quit, as well as the sufficiency of its service: personal service was not made on JOHN RAY WOELKE or any appropriate

"DOE", which invalidates item 8 on the COMPLAINT;..., and there was no follow-up mail service; and there was no alternative posting AND follow-up mail service.

(b) Examples from the EXHIBIT "B" items which substantiate the above items are:

(1) Page 1, line 1, and line 3:

> JEREMY MYER, Owner, In Propria Persona.

(2) Page 1, line 17:

> I, JEREMY MYER, hereby appear SPECIALLY and NOT generally, and assert all of my RIGHTS...

(3) Page 1, line 28, and page 2, line 1:

> I respectfully object to the jurisdiction and/or authority of this Court both over the subject matter and/or my person.

(4) Page 3, lines 21- 23:

> PLEASE TAKE NOTICE THAT THE OWNER, JEREMY MYER, appears SPECIALLY and not generally to move this Court to QUASH the

Summons and Complaint for LACK OF JURISDICTION,...

(5) Refer to page 5:

MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION

(6) Page 6: POINTS AND

AUTHORITIES: JEREMY MYER is the owner of the subject Property. The JUDICIAL NOTICE...is included herewith by its reference.

(7) Page 7: DECLARATION:

JEREMY MYER...owner of the subject property....purchaser of the subject property at the foreclosure sale for same ...in possession of subject property...[no connection or application to JOHN RAY WOELKE]...Unlawful Detainer SUMMONS, COMPLAINT, and VERIFICATION were left in Owner's mailbox on December 26, 1983,... Unlawful Detainer is null and void, and inappropriate due to the foregoing...[MYER has] instituted action against Plaintiff (and others) in Superior Court, Orange County, on November 30, 1983, Case Number 41-72-38, regarding

the subject property... this Court does not have jurisdiction to proceed in this matter.

(8) Refer to page 8 which begins JUDICIAL NOTICE and continues the POINTS AND AUTHORITIES:

Page 9:

JEREMY MYER, purchased the subject property at the Trustee's Sale on October 28, 1983.

Pages 9 and 10:

"[References to letters from MYER noticing [Pacific] of his claims; replies acknowledging receipt of same; MYER's filing of suit on November 30, 1983, CASE 41-72-38 including copies of said correspondence; ample notice to PACIFIC FEDERAL]"

....

Page 11:

On December 9, 1983, Owner JEREMY MYER filed a NOTICE OF PENDING ACTION with the Orange County Recorder, and with the SUPERIOR COURT...to supplement CASE

41-72-38. [PACIFIC FEDERAL] was served...[Under the Doctrine of Lis Pendens, this maintains status quo with property jurisdiction now in Superior Court.]

On December 26, 1983, a copy of the SUMMONS and COMPLAINT--Unlawful Detainer was left in mailbox...

> [Reiterations by MYER of the invalidity of the Unlawful Detainer with reasons therefore.]

Page 12, lines 2 - 11:

[Pacific's] 'perfection of title' is a fraud.

Items 4 through 8 of the COMPLAINT -- Unlawful Detainer are invalid and fraudulent.

..no such [Three-Day Quit] notice has been received in the mail,...[CCP 1162 - insufficient service]

...no landlord/tenant relationship exists. [This, and proper service of ALL items, is necessary for jurisdiction to accrue to the Unlawful Detainer action and, therefore, to Respondent Court.]

Page 13, lines 3 - 6:

> ...the SUMMONS and COMPLAINT--Unlawful Detainer were...received in the mailbox...and not by mail.

(c) With these EXHIBIT "B" items, [Myer] respectfully demanded the Respondent Court to QUASH the Unlawful Detainer action.

7. [Myer] filed the MOTION TO QUASH, etc., with Respondent Court on December 29, 1983, with the hearing set for January 6, 1984,....

8. On January 4, 1984, [Pacific] filed with Respondent Court the following item (EXHIBIT "C", PAGES 1 - 8):

> PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION.

9. Said item was received by [Myer] on January 8, 1984, two (2) days after the January 6, 1984, hearing. Thus [Myer]

had no means of addressing the issues raised therein at the hearing.

10. [Myer's] MOTION TO QUASH was denied by Respondent Court...on January 6, 1984, as supported by EXHIBIT "D", pages 1 - 2, (the CIVIL MINUTE SHEET and the NOTICE OF ORDER resulting from the January 6, 1984, hearing).

11. ....

12. [Myer] objects to the proceedings and their results.

13. EXHIBIT "F", pages 1 - 17, (NOTICE OF HEARING, JUDICIAL NOTICE) challenges these proceedings and results, and other items, in detail, including sufficiencies of service and jurisdiction.

NOTE: Exerpts are not made herein from EXHIBIT "F" since such would require copying most of it, adding to the volume herein unnecessarily. EXHIBIT "F", as others, is on file.

14. On January 13, 1984, [Myer] filed with Respondent Court the following items (EXHIBIT "F", seventeen (17) pages):

	EXH "F" pages
NOTICE OF HEARING; JUDICIAL NOTICE; NOTICE TO THE COURT OF ERROR; NOTICE TO PLAINTIFF'S ATTORNEY; NOTICE OF POSSIBLE FRAUD; NOTICE OF OBJECTIONS; DEMAND FOR QUASH OF SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION DATE: January 20, 1984	1 - 2
JUDICIAL NOTICE; NOTICE TO THE COURT OF ERROR NOTICE TO PLAINTIFF'S ATTORNEY NOTICE OF POSSIBLE FRAUD; NOTICE OF OBJECTIONS; DEMAND FOR QUASH OF SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION	3 - 13
EXHIBIT "A" NOTICE OF PENDING ACTION CASE NO. 41-72-38 ORANGE COUNTY SUPERIOR	14 - 16
PROOF OF SERVICE BY MAIL	17

(a) With these items [Myer] again challenged the proceedings of the

Unlawful Detainer action in, and the jurisdiction of, Respondent Court re-raising the issues as per the above item 6...including:

(1) The insufficiencies of service of the Unlawful Detainer Three-Day Quit Notice and the Summons and Complaint.

(2) The Doctrine of Lis Pendens which subscribes that said notice places the subject property within the jurisdiction of the Superior Court.

(3) The lack of any Landlord/Tenant relationship thus precluding any valid cause of action on behalf of [Pacific].

(4) [Myer's] ownership/occupancy/possession of the subject property.

(b) The hearing was held on January 20, 1984,....

15. On the evening of January 19, 1984, the night before the January 20th hearing, three (3) SUMMONSES and COMPLAINTS (EXHIBIT "G", fifteen (15) pages) were given to [Myer's] spouse by two process servers who at first represented that they were from "The Register" (the newspaper --- they had kept the SUMMONSES and COMPLAINTS folded in one of The Register editions until they were ready to serve them).

(a) Judicial Notice is to be taken of the respective "DOE 1", "DOE 2", and "DOE 3" fictitious name identifiers, as well as the notations of change on two of the SUMMONSES as received (EXHIBIT "G", pages 6 and 11).

(b) [Myer] maintains that after all of his actual notice, as well as his "SPECIAL" Court appearance, [Pacific] KNEW who he was and, therefore, did not

make him a Defendant by this attempted service, constructively or otherwise.

(c) Judicial Notice is also to be taken of the fact that EXHIBIT "G" page 1 shows "DOE 1", and that EXHIBIT "A" page 1 also shows "DOE 1": that is, "DOE 1" was re-served.

(d) Attorney for [Pacific] confirmed the next day in open court that that was the intent: the process had been started over again.

(e) This new service re-started the response time for "DOE 1" such as in accordance with CCP Sec. 1167.3 (Time to Answer) or CCP Sec. 1167.4 (Motion to Quash Service).

(f) This new service started the first responses for "DOE 2" and "DOE 3", since they had not been served previously.

NOTE: [Myer] maintains that he and

members of his household were available for service of process on a reasonable basis, that he made no attempts to avoid service at any time, and that the facts bear this out.

16. No follow-up mail service was made in accordance with CCP 415.20, or any other CCP Section which may be appropriate, for the two (2) "DOES" who were NOT PERSONALLY SERVED.

17. The hearing set for Respondent's Court on January 20th was for [Myer's] noticed hearing (EXHIBIT "F") filed with the Respondent Court on January 13th in accordance with CCP Sec. 1167.4 (Motion to Quash Service - see item 14..., and item 20(a)...of the MEMORANDUM OF POINTS AND AUTHORITIES in support of this DECLARATION.)

(a) [Myer] again appeared "SPECIALLY" and NOT generally.

(b) Attorney for [Pacific] noted in Open Court that [Myer] had been re-served the night before in order to 'forget' the prior service(s).

(c) It appears that subsequent decisions against [Myer] by Respondent were due (at least in part) to [Myer] again submitting NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION (EXHIBIT "K", thirteen (13) pages).

(d) [Myer] maintains that such MOTION was proper since the proceedings had been 're-started'.

(e) At this hearing, [Myer] challenged the jurisdiction of the proceedings of the Unlawful Detainer action, as well as the sufficiencies of service of the Three-Day Notice to Quit in accordance with CCP Sec. 1162 and all SUMMONSES and COMPLAINTS in accordance with CCP

Secs. 415.10 or 415.20, or any other appropriate CCP Section.

(f) Attorney for [Pacific] also served [Myer] with the AMENDMENT TO COMPLAINT (EXHIBIT "H", one (1) page,) which identifies [Myer] as "DOE 2", and not the previously served "DOE 1".

(g) On the AMENDMENT, [Myer's] spouse is identified as "DOE 1", while [Myer's] daughter (name mis-spelled) is identified as "DOE 3".

(h) At the hearing, the Judge questioned the Attorney for [Pacific] that [Myer] 'was not properly before the Court', yet this was not resolved with [Myer]; [Myer] believes that this was prejudicial to him.

(i) At the hearing, [Myer] also presented the broad Doctrine of Lis Pendens, as follows:

(1) The Superior Court has

the jurisdiction over the subject property DURING the pendency of the legal proceedings due to the suit and NOTICE thereof (CASE NO. 41-72-38).

(2) It is the general LAW of the land upon the broad public policy of maintaining the status quo of rights and interests of all parties in property involved in litigation until final adjudication of the action (which action to be adjudicated is Superior Court CASE NO. 41-72-38).

(j) The JUDICIAL NOTICE and DEMAND FOR QUASH was not ruled on. The "Motion to quash denied" is as per the CIVIL MINUTE SHEET (EXHIBIT "I", one (1) page), and, as per Respondent Court: 'it had been denied before, so why grant it now?'.

(k) ....

18. In response to the 'new service'

of the SUMMONSES and COMPLAINTS, item 15, ..., [Myer] filed the following items on January 24, 1984, with Respondent Court (EXHIBIT "K", thirteen (13) pages):

	EXH "K" pages
NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION; DATE: January 27, 1984	1 - 2
MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION	3
POINTS AND AUTHORITIES	4 - 7
DECLARATION	8 - 9
NOTICE OF PENDING ACTION (in ORANGE COUNTY SUPERIOR COURT, CASE NO. 41-72-38)	10 - 12
PROOF OF SERVICE	13

(a) [Myer] maintains that this filing was proper in accordance with the 'new service' and CCP Sec 1167.4. (See item 20...of the MEMORANDUM OF POINTS AND AUTHORITIES in support hereof.)

(b) [Myer] re-raised the issues

raised by him on his previous filings, and stressed that due to his purchase and ownership of the subject property which is the ULTIMATE ISSUE, the Respondent Court therefore had no jurisdiction to proceed or to let the Unlawful Detainer remain at bar.

(c) Also, [Myer] maintained that the Doctrine of Lis Pendens placed the subject property in the jurisdiction of the Superior Court via the NOTICE OF PENDING ACTION.

19. On January 27, 1984, [Myer] appeared in Respondent Court in accordance with the EXHIBIT "K" items (item 18, above), but the case was not called.

(a) [Myer] found out that the following decision had been rendered two (2) days previously without a hearing, the day after his EXHIBIT "K" filing, but unknown to him at the time:

> MOTION TO QUASH FILED 1-24-84 IS DISMISSED ON COURT'S OWN MOTION. DEFAULT MAY BE ENTERED AT PLAINTIFF'S DISCRETION.

as per the CIVIL MINUTE SHEET and NOTICE OF ORDER (EXHIBIT "L", two (2) pages).

(b) ....

(c) It also appears that since no replies were filed by [Myer's] spouse and daughter, that Default had (in effect) been taken against them, contrary to CCP Sec. 371 and 369, and even though still within the time for Motion to Quash.

(1) [Myer] advised Respondent of his appearance to also represent the other family members on EXHIBIT "K" page 3, as follows:

> JEREMY MYER also appear for those identified i open court on January 20 1984, as DOES 1 and 3 since they are members o his household/family.

(2) [Myer] relied on CCP Sec. 371 which allows for a husband to defend for his wife.

(3) [Myer] relied on CCP Sec. 369 since his daughter is in a 'trust and beneficiary' relationship to him.

(d) Respondent Court was aware of the Superior Court CASE NO. 41-72-38, ... - has been part of the 'decision' against him: that is, it appears that Respondent Court effectively, but ex-jurisdictionally, adjudicated the title issue.

(1) [Myer] maintains that ...the purchase, ownership, and title issue [is] to be adjudicated in Superior Court according to proper jurisdiction, and it is not pertinent or relevant to the Unlawful Detainer action.

(2) [Myer] maintains that

his RIGHT OF POSSESSION is based on such purchase, ownership, and title issue and, therefore, it is this RIGHT which is appropriate to the Unlawful Detainer action.

(3) [Myer] maintains that the RIGHT OF POSSESSION rests in the results of the action begun in Superior Court (CASE NO. 41-72-38).

(4) [Myer] maintains that Superior Court CASE NO. 41-72-38 must be adjudicated first in order to determine if any proper Unlawful Detainer action can even be effected at bar.

20. On January 27, 1984, [Myer] filed with Respondent Court the following item (EXHIBIT "M", two (2) pages):

JUDICIAL NOTICE
NOTICE OF OBJECTIONS
VIOLATIONS OF DUE PROCESS & RIGHTS

21. On this EXHIBIT "M", [Myer] ob

jected to the VIOLATIONS OF DUE PROCESS, RIGHTS, AND ABUSE OF PROCESS due to not being heard, as well as due to the LACK OF JURISDICTION and that there is no Landlord/Tenant relationship.

22. To the best of [Myer's] knowledge and belief, the file/record of Respondent Court fails to show any Proofs of Service for the item 15,..., SUMMONSES AND COMPLAINTS (EXHIBIT "G"), and it also fails to show any sufficient Proof of Service for the item 3,..., SUMMONS AND COMPLAINT (EXHIBIT "A").

23. [Myer] has acted and appeared "In Propria Persona" in all matters related hereto. [Myer] is not an attorney.

24. [Pacific] has not addressed or proven sufficiencies of service where they have been challenged, and has not asserted or proven any Landlord/Tenant relationship which items are necessary to

the issue of Jurisdicition and proper procedure in the Unlawful Detainer action.

25. On February 10, 1984, [Myer filed, and caused to be served the following items for hearing on February 17, 1984, in Respondent Court:

> NOTICE OF MOTION AND MOTION TO VACATE JUDGMENT CCP Sec. 663, 663a;
>
> DEMAND FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW;
>
> POINTS AND AUTHORITIES;
>
> DECLARATION.

26. On February 10, 1984, the same day as the filing, Respondent's CIVIL MINUTE SHEET and NOTICE OF ORDER show:

> "MOTION TO VACATE JUDGMENT AND FOR FINDINGS DISMISSED ON COURT'S OWN MOTION."

27. I affirm that the foregoing is true and correct.

Dated: June 6, 1984.

Jeremy Myer
Declarant

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

JEREMY MYER, Petitioner, v. THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	Civil Action No. 42-14-46 (Munic. Ct. No. A 73032)

Date: June 28, 1984 Dept: 23

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF PURGATORY OATH AND
DECLARATION OF JEREMY MYER
FOR CLARIFICATION OF RECORD

NOTE: EXHIBITS as referenced herein, unless otherwise referenced, were filed with the Court and appropriately delivered to both Respondent and [Pacific's] attorney on January 31, 1984, as an EXHIBITS package of thirteen (13) EXHIBITS, "A" - "M",....Such EXHIBITS are an integral part hereof by their reference.

I

THE SUMMONS IN AN UNLAWFUL DETAINER ACTION MUST BE ISSUED AND SERVED IN THE SAME MANNER AS A SUMMONS IN A CIVIL ACTION (CCP Sec. 1167)

1. There was no personal delivery of the first SUMMONS (and COMPLAINT - EXHIBIT "A").

2. There was no leaving of the first SUMMONS (and COMPLAINT - EXHIBIT "A") with a 'competent member of the household' or in any other lawful fulfillment of service in accordance with CCP Sec. 415.20 (b).

3. There was no first-class mail, postage prepaid, service (OF EXHIBIT "A") which is the REQUIRED COMPANION to item 2, above, in CCP 415.20 (b).

4. There was no other lawful and legal fulfillment of service of the first SUMMONS and COMPLAINT (EXHIBIT "A").

5. Since [the remedy of unlawful

detainer] is purely statutory in nature, it is essential that a party seeking the remedy bring himself clearly within the statute." (Citation)
Baugh v. Consumers Associates, Ltd. (1966)
241 Cal.App.2d 672, 674;
50 Cal.Rptr. 822)

Therefore, the first SUMMONS and COMPLAINT (EXHIBIT "A") was defective, must fail, and no jurisdiction accrued thereto.

II

WHEN THE PLAINTIFF IS IGNORANT OF THE NAME OF A DEFENDANT, HE MUST STATE THAT FACT IN THE COMPLAINT (CCP Sec. 474)

6. [Pacific] was very thoroughly advised by [Myer] well in advance of the Unlawful Detainer SUMMONS AND COMPLAINT issuance, of [Myer's] purchase, ownership and possession of the subject property, and, since [Myer] was not named thereon, ..., said action was precluded from including [Myer] as either a Defendant or

a "Doe".

7. PACIFIC FEDERAL HAD TO BE WELL AWARE OF [Myer's] PRESENCE AND CLAIMS, and failure to specifically name him on the Unlawful Detainer action was both actual and constructive exclusion of him as a Defendant thereto.

III

THERE MUST BE A LANDLORD/TENANT RELATIONSHIP IN AN UNLAWFUL DETAINER ACTION

> "A tenant of real property,...is guilty of unlawful detainer:..." (CCP Sec. 1161).

8. [Pacific] complained of Unlawful Detainer, therefore requiring that a landlord/tenant relationship exist.

9. A complaint in an unlawful detainer proceeding must plead the fact that a landlord/tenant relationship exists between the parties. (Fredericksen v. McCosker (1956) 143 Cal.App.2d 114, 116-118; 299 P.2d 908; and Klein v.

Loeffler (1929) 96 Cal.App. 383, 385; 274 P.373.) The COMPLAINT did not plead the fact that a landlord/tenant relationship existed between [Myer] and [Pacific], or between [Pacific] and any named defendants, and, therefore the COMPLAINT is defective, must fail, and no jurisdiction accrued thereto.

10. Plaintiff can neither assert nor prove that a landlord/tenant relationship existed with the purchaser and owner [Myer], nor between WOELKE and [Myer] AT ANY TIME, nor with anyone else on the COMPLAINT.

11. [Pacific] and Respondent Court have assumed a status relative to [Myer] BY ASSUMED FICTION OF LAW for the Unlawful Detainer action, which status has not existed.

12. It is not up to [Myer] to have to prove any status relative to the

Unlawful Detainer action.

13. [Myer] asserts his claim to the title via purchase at the Trustee's Sale on October 28, 1983, (Orange County Superior Court CASE NO. 41-72-38) and, therefore, his ownership of the subject property.

14. [Myer] asserts that the Unlawful Detainer action is PRECISELY THAT: UNLAWFUL.

IV

SINCE PROPERTY WAS SOLD IN ACCORDANCE WITH CIVIL CODE SECTION 2924, CCP SEC. 1161a SUBPARAGRAPH 3 MUST BE PROPERLY APPLIED

> ...a person who holds over and continues in possession of real property after a three-day written notice to quit the property has been served upon the person, or if there is a subtenant in actual occupation of the premises, also upon such subtenant, as prescribed in Section 1162, may be removed therefrom as prescribed in this chapter:
>
> 3. Where the property has been

sold in accordance with Section 2924 of the Civil Code, under a power of sale contained in a deed of trust executed by such person, or a person under whom such person claims, and the title under the sale has been duly perfected. (CCP Sec. 1161a 3)

15. The subject property was not sold under a power of sale contained in a deed of trust executed by [Myer], or by anyone in [Myer's] household, or by anyone related to [Myer] in any way, "...or a person under whom such person claims".

16. Therefore, [Myer] cannot be removed according to CCP Section 1161a, subparagraph 3.

V

THE THREE-DAY QUIT NOTICE MAY BE DELIVERED PERSONALLY OR LEFT WITH PERSON OF SUITABLE AGE AND DISCRETION, AND SENDING A COPY THROUGH THE MAIL ADDRESSED TO THE TENANT AT HIS PLACE OF RESIDENCE; OR...BY AFFIXING A COPY IN A CONSPICUOUS PLACE ON THE PROPERTY AND ALSO DELIVERING A COPY TO A PERSON THERE RESIDING...; AND ALSO SENDING A COPY THROUGH THE MAIL ADDRESSED TO THE TENANT AT THE PLACE WHERE THE PROPERTY IS SITUATED. (CCP Sec. 1162)

17. ...no "personal" service was effected.

18. [Myer] is not a "tenant" for any purpose hereunder, and [Pacific] is not a "landlord" for any purpose hereunder.

19. There was no follow-up mail service of any sort and, therefore, the COMPLAINTS fail to state any cause of action.

> It is settled, however, that a party may assert at any time that the complaint does not state a cause of action. (Citations) Baugh v. Consumers Associates Ltd., supra, at page 673.
>
> We conclude, therefore, that because of the insufficiency of the [three-day quit] notice served upon the applicant the complaint failed to state a cause of action and the judgment entered upon the complaint may not be sustained. Baugh v. Consumers Associates Ltd., supra, at page 675.

20. Also, Kwok v. Bergren (1982) 130 Cal.App.3d 596, 599-600; 181 Cal.

Rptr. 795, examined the service of the three-day quit notice, and concluded:

> "An unlawful detainer action... is a statutory proceeding and is governed solely by the provisions of the statute creating it." [Citations] "As special proceedings are created and authorized by statute, the jurisdiction over any special proceeding is limited by the terms and conditions of the statute under which it was authorized [citation], and a lessor's action to recover possession of real property is not one for unlawful detainer where he does not comply with the statutory notice requirements [citation]. The statutory procedure must be strictly followed." (Citations)
>
> "Lamey v. Masciotra (1969) 372 Cal.App.2d 709, 713 [78 Cal. Rptr. 344], states that "Under California statutory law a tenant is entitled to a three-day notice to pay rent or quit which may be enforced by summary legal proceedings (Code Civ. Proc. [Sec.] 1161) but this notice is valid and enforceable only if the lessor strictly complies with the specifically described notice conditions. (Code Civ. Proc. [Sec.] 1162.)"

21. Therefore, no jurisdiction

accrued under CCP Sec. 1161a.

22. In reference to Section 6(a)(6) ...of the DECLARATION of which this MEMORANDUM is in support, CCP Sec. 1162 governing Service of Required Notice was NOT complied with.

VI

PETITIONER MADE A SPECIAL APPEARANCE

23. [Myer] was making a "SPECIAL APPEARANCE", and not granting jurisdiction via a general appearance. Such a "SPECIAL APPEARANCE" was appropriate to address Respondent Court on the issue of the Unlawful Detainer so as to properly advise of the situation, otherwise Respondent and [Pacific] would have moved against the "occupants" by Default if no one had appeared.

VII

NO COURT OR OFFICER CAN ACQUIRE JURISDICTION BY DECIDING THAT HE HAS IT

> No Court or officer can acquire jurisdiction by the mere assertion of it, or by falsely alleging the existence of facts on which jurisdiction depends.
> Middleton v. Low (1866)
> 30 Cal. 596, 607)
> (EXHIBIT "N"....)

24. Other related items as noted on EXHIBIT "B" precluded the Unlawful Detainer action from being valid lawfully or legally and, therefore, precluded the Respondent Court from proceeding with any proper jurisdictional base. (Also refer to the DECLARATION of which this MEMORANDUM is in support, item 6,...for EXHIBIT "B" items.)

> When a judge acts in clear absence of all jurisdiction,... the proceeding is coram non judice....Where there is no jurisdiction at all there is no judge; the proceeding is as nothing.
> Manning v. Ketcham (1932)
> 58 F.2d 948, 949. (EXHIBIT "O")

....

IX

PETITIONER CHALLENGED PROCEEDINGS & RESULTS DUE TO LACK OF JURISDICTION, INSUFFICIENCIES OF SERVICE, ETC.

26. [Myer] objects to the proceedings and their results and seeks relief from same since [Myer] somehow 'became' classified as "Defendant" by both Respondent Court (EXHIBIT "D") and the attorney for [Pacific] (EXHIBIT"E"), even though he appeared "SPECIALLY", did not appear FOR or AS a Defendant, and could not be a Defendant as noted previously.

27. EXHIBIT "F", ..., (NOTICE OF HEARING, JUDICIAL NOTICE) challenges these proceedings and results, and other items, in detail, including sufficiencies of service and jurisdiction.

X

NEW SERVICE DID NOT CORRECT INSUFFICIENT SERVICE OF THREE-DAY QUIT NOTICE AND SHOULD HAVE RE-STARTED PROCEDURE

28. Re-service of the SUMMONS and COMPLAINT as per the DECLARATION, item 15,..., did NOT correct the initial step: the deficient service of the original Three-Day Quit Notice (no postage prepaid mail was received).

29. The new service re-began the application of CCP Sec. 1167.3 (Time to Answer) and CCP Sec. 1167.4 (Motion to Quash Service), for "DOE 1".

30. It started the first responses for "DOE 2" and "DOE 3", since they had not been served previously.

31. [Myer] maintains that the insufficiencies and deficiencies of service gave no jurisdiction to the proceedings: that is, the Unlawful Detainer had not been placed before the Respondent Court

properly, and this was made known to Respondent clearly, as the EXHIBITS show.

32. This lack of jurisdiction due to the insufficiencies and deficiencies of service is in addition to the lack of jurisdiction due to [Myer's] purchase and ownership of the subject property, with its attendant Superior Court action and Notice of Pending Action.

XI

IF SUMMONS AND COMPLAINT NOT PERSONALLY SERVED, MUST INCLUDE MAIL SERVICE IN ACCORDANCE WITH CCP 415.20

33. Notice must also be taken of the fact that no follow-up mail service was made in accordance with CCP 415.20, or any other CCP Section which may be appropriate, since two (2) of the "DOES" were not personally served. (This statement does not admit that [Myer's] spouse was served properly even then.)

XII

NEW SERVICE RE-STARTED PROCEDURE
ALTHOUGH NO 3-DAY QUIT NOTICE
HAD BEEN PROPERLY SERVED;
TITLE ISSUE PRECLUDED JURISDICTION

34. The AMENDMENT TO COMPLAINT (EXHIBIT "H") identified all three (3) individuals FOR THE FIRST TIME (as "DOES" or otherwise). (Reference DECLARATION item 17(f) and (g),....)

XIII

WHERE IS THE DEFAULT?
WHO IS IN DEFAULT?
WHERE IS THE JURISDICTION FOR ANY DEFAULT?

35. There was no 'Default' by [Myer], or any member of his household since his replies were timely, proper, and in accordance with CCP Sec. 1167.4 (item 20(a)...,) and also in accordance with CCP Secs. 371 and 369:

> If a husband and wife are sued together, each may defend for his or her own right, but if one

> spouse neglects to defend, the other spouse may defend for that spouse's right also..
> (CCP Sec. 371.)
>
> ...trustee of an express trust, or a person expressly authorized by statute, may sue without joining with him the persons for whose benefit the action is prosecuted. A person with whom, or in whose name, a contract is made for the benefit of another is a trustee of an express trust, within the meaning of this section.
> (CCP Sec. 369.)

(a) All actions which [Myer] is taking on the subject property effectively 'contract', and [Myer's] daughter is a 'beneficiary' with an interest in the results.

(b) Also, as the head of the household and family, [Myer] has the RIGHT to appear and defend for all members served, and that they have the RIGHT for this as well.

(c) [Myer] challenges hereby any denial of such RIGHT as a violation

of Constitutionally guaranteed RIGHTS, both U. S. and California, including the Preambles thereto.

(d) [Myer] maintains that any denial of such RIGHT would effectively be an example of ABUSE OF PROCESS and harassment since each member would be obligated to appear and defend, especially on an essential issue relevant to [Myer] - purchase and ownership of the subject property from which the RIGHT OF POSSESSION accrues - from which the other family members benefit.

(e) And:

> The code establishes the law of this state respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice. (CCP Sec. 4.)

XIV

THE TITLE ISSUE;
NO JURISDICTION FOR MUNICIPAL COURT

36. [Myer's] purchase and ownership - that is, the title issue - do not allow for the Unlawful Detainer action:

> ...homeowners cannot be evicted consistent with due process guarantees, without being permitted to raise the affirmative defenses which if proved would maintain their possession and ownership.
> Asuncion v. Superior Court (1980) 108 Cal.App.3d 141,146; 166 Cal.Rptr. 306.

> ...title to the property is inevitably in issue in this unlawful detainer action, and the action is not within the jurisdiction of the municipal court.
> Asuncion v. Superior Court supra, at 146.

> A court has no jurisdiction to hear or determine a case where the type of proceeding or the amount in controversy is beyond the jurisdiction defined for that particular court by statute or constitutional provision. (Citation)
> Abelleira v. District Court of Appeal (1941) 17 Cal.2d 280, 288

Dated: June 6, 1984.

Respectfully submitted,

Jeremy Myer
Declarant, In Pro Per

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	
v.	Civil Action No. A 73032
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	NOTICE OF APPEAL (Cal Rules of of Ct, Rule 121(a))

NOTICE IS HEREBY GIVEN that Jerem/ Myer, owner/defendant, on behalf of himself and his household, appeals from the default dated August 24, 1984.

Dated: September 19, 1984.

Jeremy Myer
Owner/Defendant
In Pro Per

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	Civil Action No. A 73032
JEREMY MYER, et al., Appellant, v. PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Appellee.	APPELLANT'S DESIGNATION OF RECORDS (Cal Rules of Ct, Rule 125(a))

NOTICE IS HEREBY GIVEN that JEREMY MYER, Appellant, on behalf of himself and his household, designates as the Record on Appeal all items as part of this CASE NO. A 73032, those of ORANGE COUNTY SUPERIOR COURT CASE NO. 42-14-46 which are an inherent part hereof, and appropriate items of ORANGE COUNTY SUPERIOR

COURT CASE NO. 41-72-38 as noted, including the following:

NOTE: In ORANGE COUNTY SUPERIOR COURT CASE NO. 42-14-46, JEREMY MYER is the Petitioner, this ORANGE COUNTY MUNICIPAL COURT, NORTH ORANGE COUNTY JUDICIAL DISTRICT is the Respondent, and PACIFIC ...is the Real Party in Interest. Therefore, said case is an inherent part of this CASE NO. A 73032. Where no CASE NO. is noted, this CASE NO. A 73032 applies.

[NOTE: In the interest of space in this Appendix to the Petition to the U.S. Supreme Court, only a few of the documents are listed here. The actual list is complete and comprehensive, including all pleadings, orders, civil minute sheets, etc.: just about the entire record. (Those documents from which extracts have been made for the Appendix were included.)]

....

31. REQUEST TO ENTER DEFAULT dated 8/22/84,....

32. NOTICE OF DEFAULT ENTRY dated 8-22-84.

33. REQUEST TO ENTER DEFAULT dated 8/24/84.

34. APPLICATION FOR IMMEDIATE WRIT OF POSSESSION BY CLERK UNLAWFUL DETAINER dated August 24, 1984, including:

a. NOTICE TO QUIT THREE (3) DAYS dated 11/21/83.

b. NOTICE OF SERVICE dated 11-28-83.

c. TRUSTEE'S DEED OF SALE dated November 29, 1983. [Dated eight days after the above Three-Day Notice.]

35. ORDER FOR WRIT OF POSSESSION BY CLERK - UNLAWFUL DETAINER filed AUG 24 1984.

36. WRIT OF EXECUTION dated 8-28-84.

37. MARSHAL'S OFFICE NOTICE TO VACATE Date Mailed August 29, 1984.

38. Complete copy of DOCKET SHEET/ MINUTE ORDERS.

Dated: September 29, 1984.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

IN THE MUNICIPAL COURT
OF ORANGE COUNTY
NORTH ORANGE COUNTY JUDICIAL DISTRICT
STATE OF CALIFORNIA

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	Civil Action No. A 73032
JEREMY MYER, et al., Appellant, v. PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Appellee.	APPELLANT'S NOTICE OF SETTLED STATEMENT (Cal Rules of Ct, Rule 127(a))

NOTICE IS HEREBY GIVEN that JEREMY MYER, Appellant, on behalf of himself and his household, will file a Settled Statement. Dated: September 28, 1984.

Jeremy Myer
Appellant, In Pro Per

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	
v.	Civil Action No. A 73032
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	
JEREMY MYER, et al., Appellant,	
v.	
PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Appellee.	

APPELLANT'S STATEMENT OF ISSUES
TO BE RAISED ON APPEAL
AND PROPOSED SETTLED STATEMENT

(Cal Rules of Ct, Rule 127(a))

DECLARATION

I

STATEMENT OF ISSUES
TO BE RAISED ON APPEAL

1. [Myer] purchased the subject property at the Trustee's Sale on October 28

1983, and [Pacific] was fully aware of said purchase, especially since [Myer] wrote to [Pacific] and filed suit in Orange County Superior Court (CASE NO. 41-72-38) to enforce his claim.

2. [Pacific] did not validly serve and file a valid Three Day Notice to Quit.

3. [Pacific] had not perfected title to the subject property at the time of issuance of the document which [Pacific] relied on as the Three Day Notice to Quit.

4. [Pacific], therefore, had no cause of action with which to pursue the Unlawful Detainer action.

5. None of the Summonses and Complaints were served properly, therefore [Pacific] had no cause of action with which to proceed.

6. JOHN RAY WOELKE was the only

named Defendant initially and [Myer] made it very clear that he had never had any relationship with said person at any time, that he was not WOELKE, and that since [Pacific] had known who [Myer] was via appropriate prior correspondence and the Superior Court action CASE 41-72-38 filed previously, that [Pacific's] failure to name [Myer] as a Defendant at the time directly on any of the Summonses and Complaints was constructive acknowledgement that [Myer] was indeed not a proper Defendant: [Pacific's] foreknowledge based on [Myer's] direct communications, coupled with [Pacific's] failure to use such knowledge constructively, waived [Pacific's] subsequent drawing of [Myer], or anyone in his household, into the Complaint.

7. The Court and [Pacific] proceeded ex-jurisdictionally since [Pacific]

was not clearly within the scope of the summary proceedings of the Unlawful Detainer, WHICH IS AN ABSOLUTE REQUIREMENT FOR SUCH SUMMARY PROCEEDINGS:

(a) [Myer's] purchase was a title issue beyond the jurisdiction of the Municipal Court.

(b) [Myer's] Superior Court suit (CASE NO. 41-72-38) and publicly recorded Notice of Pending Action placed the subject property beyond the Municipal Court's jurisdiction in accordance with the well-established doctrines of Lis Pendens and that there can be no rule-making or legislation which abrogates rights.

(c) There were no valid Three Day Notice to Quit and Summonses and Complaints served and filed.

(d) There was no landlord/tenant relationship between [Myer] and

[Pacific], constructive or otherwise, and [Pacific] never asserted or proved any such relationship once [Myer] raised the issue.

8. [Myer] went before the Court twice under "Special Appearance" to explain the situation (including his purchase), to advise the Court that it was proceeding ex-jurisdictionally, and in order to Quash the proceedings for LACK OF JURISDICTION. Once jurisdiction is challenged, it must be proven, it cannot simply be assumed.

9. [Myer's] Motions / Demands to Quash Service of Summons and Complaint and the proceedings for Lack of Jurisdiction were denied by the Court when, in fact, the Court had no jurisdiction to proceed due to the foregoing.

10. [Pacific] re-served the Summonses and Complaint, again without complying

with proper service. Such re-service was prima facie acknowledgment of the insufficiencies of the prior services (upon which the Court had dismissed [Myer's] Motions).

11. [Myer] again filed a Motion to Quash, in response to this service, and this was dismissed on the Court's own motion without a hearing, albeit that the intent of the [Pacific] was to re-start the process. THUS, [Myer] was not only never served properly, he was not heard by the Court on the albeit invalid service of process upon which the Court and [Pacific] proceeded to the ultimate conclusion of the 'eviction' of [Myer] and his household from the subject property via the Unlawful Detainer summary proceedings, yet Eviction and Unlawful Detainer are different proceedings.

12. [Myer], continuing to proceed as

Owner, In Propria Persona, filed a Motion to Vacate Judgment which was also dismissed on the Court's own motion.

13. [Myer] has notified the Court and [Pacific] and [Pacific's] attorney of THE CONTINUAL AND FLAGRANT ERRORS AND ABUSES OF PROCESS with JUDICIAL NOTICE, NOTICE TO THE COURT OF ERROR, NOTICE TO [Pacific's] ATTORNEY, NOTICE OF POSSIBLE FRAUD, NOTICE OF OBJECTIONS, DEMAND FOR QUASH OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION, DECLARATION, VIOLATIONS OF DUE PROCESS AND RIGHTS, and so forth, as the record bears out, BUT ALL TO NO AVAIL.

14. [Myer] proceeded into the Orange County Superior Court (CASE NO. 42-14-46) in which he documented all of the violations again:

(a) In the proceedings for a WRIT OF MANDATE/PROHIBITION.

(b) In the later proceedings for ABATEMENT OR IN THE ALTERNATIVE STAY OF PROCEEDINGS.

15. [Pacific] has tried to correct the record for the invalid service of the Summonses and Complaint on January 19, 1984, via a DECLARATION OF LINDA S. NUNEZ RE LOST OR MISPLACED ORIGINAL SUMMONS, ETC., dated August 21, 1984, including a DECLARATION OF DENNIS SANCHEZ dated January 20, 1984, and other documents:

(a) [Myer] maintains that this is a FRAUD and he also addresses this in [Myer's] DECLARATION which is...included herein by its reference.

(b) [Myer] asserts that [Pacific's] attorney has resorted to this FRAUD to attempt to correct the record since [Myer] HAS CONTINUALLY MAINTAINED THAT THERE HAS NEVER BEEN PROPER SERVICE OF ANY DOCUMENTS WHICH WOULD HAVE BROUGHT

THIS MATTER UNDER THE JURISDICTION OF THE MUNICIPAL COURT, notwithstanding THE FACT that the TITLE ISSUE and value placed on the property by [Pacific] precluded any jurisdiction from accruing to the Municipal Court.

(c) [Myer] re-documented all of the violations in hearings in the Orange County Superior Court, CASE NO. 42-14-46.

16. [Pacific] proceeded with the 'eviction' of [Myer] and his household via a Writ of Execution based on a decision of the Superior Court (CASE NO. 42-14-46) dated August 17, 1984. This decision was based on a decision of the Superior Court (CASE NO. 41-72-38) dated August 21, 1984 (and filed August 22, 1984). Thus, the Municipal Court action to 'evict' [Myer] and his household was invalid both as to all of the invalidities of the prior errors and Municipal

Court proceedings, and since the Superior Court decision upon which it was based was itself based upon another Superior Court case decision which had not been made at the time of its issuance: there was no valid decisional jurisdiction for the Municipal Court or the [Pacific] to have proceeded with.

17. [Pacific], by pursuing the Unlawful Detainer action in the Municipal Court against [Myer] and his house-hold, created a situation of harassment, multiplicity of suit, and vexatious action against [Myer] and his household, and this was well-documented in Orange County Superior Court action CASE NO. 42-14-46.

II

PROPOSED SETTLED STATEMENT

There being no court reporter at many of the hearings, Appellant submits this PROPOSED SETTLED STATEMENT. ....

III

[MYER'S] CONCLUSIONS

[Myer], by virtue of his purchase of the subject property at the Trustee's Sale, has THE RIGHT to same, and the Unlawful Detainer action brought on by [Pacific] was invalid, a harassment, and a needless, vexatious multiplicity of action.

[Pacific] had not perfected title prior to sending out the Three Day Notice to Quit, and said Notice, as well as all Summonses and Complaints were not served in accordance with the Code of Civil Procedure.

There was no landlord/tenant relationship between [Pacific] and [Myer], constructive or otherwise.

Accordingly, the Unlawful Detainer action was itself unlawful and illegal since it was not within the very precise

scope of said proceedings which, by their nature being summary, REQUIRE absolute conformity WITHIN --- not exceeding --- the statute.

Dated: October 17, 1984.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

III

APPELLANT'S DECLARATION

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, JEREMY MYER, do depose and say:

1. I am the Appellant in the above-entitled action.

2. I have periodically inspected the Municipal Court file in this CASE NO. A73032 from its inception until late September, 1984.

3. At no time prior to August 22, 1984, has there appeared in said file any proper proofs of service by mail or

declarations as to such mail delivery which is requisite by the statutes where any service requiring personal service, but such service being made to a third person, requires a follow-up delivery via the mail.

4. The record now shows a DECLARATION OF LINDA S. NUNEZ RE LOST OR MISPLACED ORIGINAL SUMMONS, APPLICATION TO USE COPY OF ORIGINAL SUMMONS IN PLACE OF ORIGINAL, ORDER THEREON, filed with the Court on August 22, 1984. Attached to this [NUNEZ] DECLARATION are:

(a) Copy of a SUMMONS dated December 19, 1983.

(b) Original of DECLARATION OF DENNIS SANCHEZ dated January 20, 1984.

(c) PROOF OF SERVICE on defendant LISA MYER dated January 20, 1984.

(d) PROOF OF SERVICE on defendant MRS. JEREMY MYER dated January 20,

1984.

(e) DECLARATION OF ATTEMPTED SERVICE by S. HORVATH dated January 19, 1984.

5. [Myer] believes said DECLARATION OF LINDA S. NUNEZ and the attachments thereto are a fraudulent attempt by said NUNEZ to correct some of the invalid services and, in fact, by this attempt to correct them, said Attorney Nunez in fact acknowledges that the prior services were insufficient.

6. Judicial Notice is to be taken of the fact that these documents were not in the file previously, and neither have they been received by [Myer] previously, and that they now enter the file after [MYER'S] CONTINUAL AND LOUD PROCLAMATIONS AS TO THE INSUFFICIENCIES OF SERVICE NOT ONLY AS TO THIS PARTICULAR SUMMONS AND COMPLAINT, BUT ALSO AS TO ALL OF THE REST

AS CLEARLY AND CONTINUALLY DOCUMENTED IN THIS MUNICIPAL COURT CASE NO. A73032 AND THE ORANGE COUNTY SUPERIOR COURT CASE NO. 42-14-46.

7. Judicial Notice is to be taken of Judge Moore's signing the ORDER on August 24, 1984.

8. I affirm that the foregoing is true and correct to the best of my knowledge and belief.

Dated: October 17, 1984.

Jeremy Myer
Declarant

85-1272

Supreme Court, U.S.
FILED
JAN 28 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

NO. _____

JEREMY MYER,

Petitioner,

v.

PACIFIC FEDERAL SAVINGS
AND LOAN ASSOCIATION,

Respondent.

SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE STATE OF CALIFORNIA SUPREME COURT

Part 3 of 4

JEREMY MYER
16783 Beach Boulevard
Huntington Beach, CA 92647
714/841-8104
Petitioner, In Pro Se

OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	Civil Action No. AP-4726
v.	[Former No. AP-4482]
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	
JEREMY MYER, et al., Appellant,	
v.	APPELLANT'S OPENING BRIEF
PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Appellee.	

On Appeal from Default Judgment, Proceedings, and Decisions in the Municipal Court of Orange County, North Orange County Judicial District, State of California,...
[Municipal Court CASE NO: A 73032]

TABLE OF CONTENTS

Section	Title	Page
I	INTRODUCTION	1
II	THE PARTIES WERE NOTIFIED OF MYER'S PURCHASE OF THE SUBJECT PROPERTY (AS WELL AS HIS CONTINUING OCCUPANCY) AND, THEREFORE, THE MATTER BEING BEYOND THE JURISDICTION OF THE MUNICIPAL COURT	3
III	INSUFFICIENCIES OF SERVICES OF THREE-DAY NOTICE AND SUMMONSES AND COMPLAINTS DENY THE MUNICIPAL COURT JURISDICTION AND PACIFIC ANY VALID CAUSES OF ACTION	16
IV	BECAUSE OF MYER'S PURCHASE, THERE WAS NO VALID 'PERFECTION OF TITLE' AND, THEREFORE, NO MUNICIPAL COURT JURISDICTION AND NO VALID CAUSES OF ACTION; MYER'S "SPECIAL APPEARANCES" DENIED ANY JURISDICTION TO THE MUNICIPAL COURT IN PERSONAM OR IN REM	18
V	MYER AND FAMILY WERE NOT IN DEFAULT; THEREFORE THE MUNICIPAL COURT'S "DEFAULT" DECISIONS WERE IMPROPER, AND OF NO LEGAL FORCE AND/OR EFFECT	18

VI	MYER WAS IGNORED AND NOT GIVEN PROPER ADJUDICATION OF THE ISSUES OF LAW, FACT, AND PROCEDURE	19
VII	MYER WAS 'VEXATIOUSLY HARASSED' BY PACIFIC VIA THE UNLAWFUL DETAINER ACTION AS IMPROPER 'MULTIPLICITY OF SUIT'	19
VIII	THE ISSUES OF TITLE, LAW, FACT, AND PROCEDURE WERE CLEARLY BEYOND SUMMARY PROCEEDING AND JURISDICTION OF UNLAWFUL DETAINER; CLERK'S WRIT OF POSSESSION AND MARSHAL'S OFFICE NOTICE TO VACATE WERE EX-JURISDICTION WITH NO LEGAL/LAWFUL SUFFICIENCY; IT APPEARS THAT PACIFIC ATTEMPTED TO 'PERFECT TITLE'	20
IX	OTHER IRREGULARITIES IN THE PROCEEDINGS; MYER AND HIS FAMILY HAVE BEEN SIGNIFICANTLY DAMAGED AS TO PROPERTY AND RIGHTS BY PACIFIC AND THE MUNICIPAL COURT	20
	CONCLUSION	

I

INTRODUCTION

...[MYER] was occupant of the subject property with his family and purchased said subject property at the Trustee's Sale on October 28, 1983, in full and complete accordance with the NOTICE OF TRUSTEE'S SALE dated September 27, 1983, in which [Pacific] was BENEFICIARY. MYER filed suit in the Orange County Superior Court (CASE NO. 41-72-38) to perfect his claim, and [Pacific] is one of the defendants therein, and the Municipal Court was advised appropriately.

[PACIFIC] brought an Unlawful Detainer action against JOHN RAY WOELKE, hereinafter referred to as "WOELKE", and DOES 1-10, inclusive.

MYER documented throughout the proceedings that he was the purchaser of the

property and, therefore, could not be lawfully put out; that due to his purchase, the matter was clearly beyond the jurisdiction of the Municipal Court; that there were insufficiencies of service of the Three-Day Notice to Quit and the various Summonses and Complaints, thereby also denying the Municipal Court proper jurisdiction to proceed and denying PACIFIC any valid cause(s) of action; that PACIFIC had not perfected title prior to the Three-Day Notice to Quit, further denying the Municipal Court any jurisdiction as well as denying PACIFIC any valid cause(s) of action; that in view of MYER's purchase, PACIFIC was unable to 'perfect title' legally or lawfully, and certainly not for the Municipal Court action; that his "SPECIAL APPEARANCES" did not give jurisdiction to the Municipal Court, which proceeded over his

objections; that subsequent service of the Summonses and Complaints, being invalid both as to their own service and their pre-requisite for a valid Three-Day Notice to Quit, still did not give the Municipal Court jurisdiction to proceed; therefore, based on the foregoing, the decisions of the Municipal Court against MYER were improper and lacking jurisdiction, and, therefore, also lacking proper legal or lawful enforcement; that MYER, et al., were not in DEFAULT, as the Municipal Court so found; that MYER's attempts for proper adjudication of the ISSUES OF LAW, FACT, AND PROCEDURE both at the Municipal Court level and at the Orange County Superior Court level were effectively ignored, as were such ISSUES OF LAW, FACT, AND PROCEDURE themselves, (see Orange County Superior Court CASE NO. 42-14-46, PETITIONs FOR WRIT OF

MANDATE / PROHIBITION / JUDICIAL REVIEW/ JUSTICE and MOTION FOR ORDER FOR ABATEMENT OR IN THE ALTERNATIVE STAY OF MUNICIPAL COURT PROCEEDINGS, all served on the Respondent Municipal Court and the Judges therein); that PACIFIC, by bringing the Unlawful Detainer action, and/or pursuing it, acted under the principles of vexatious harassment and invalid multiplicity of suit due to the same or similar cause(s) of action by and between (essentially) the same parties (again, see the Orange County Superior Court CASE NO. 42-14-46), and that the Municipal Court was fully apprised accordingly; that the Municipal Court effectively adjudicated a title issue which was beyond its scope of jurisdiction; that the Municipal Court effectively and knowingly proceeded with the summary proceeding of Unlawful Detainer

where the ISSUES OF LAW, FACT, AND PROCEDURE were clearly beyond the nature of such summary proceeding; that the ORDER FOR WRIT OF POSSESSION BY CLERK - UNLAWFUL DETAINER was invalid, improper, lacking jurisdiction, and, therefore, insufficient as to any legal or lawful base; that, therefore, the MARSHAL'S OFFICE NOTICE TO VACATE, with its threat of 'forcible eviction', also had no jurisdictional base and/or legal or lawful sufficiency for its issuance; it appears that PACIFIC attempted to 'perfect title'; that there were other irregularities in the proceedings and in the Municipal Court file; and that MYER AND HIS FAMILY HAVE BEEN SIGNIFICANTLY DAMAGED AS TO PROPERTY AND RIGHTS --- CONSTITUTIONAL, CONSTITUTIONALLY GUARANTEED, AND CIVIL - BOTH UNITED STATES AND STATE OF CALIFORNIA --- BY AT LEAST

PACIFIC AND THE MUNICIPAL COURT IN VIOLATION OF LAW AND PROCEDURE, AND CONTRARY TO THE CLEAR AND UNMISTAKABLE FACTS AND MUNICIPAL COURT AND RELATED SUPERIOR COURT RECORDS, AND THAT MYER ACTED LAWFULLY AND LEGALLY AT ALL TIMES, AND IN ACCORDANCE WITH AN ADVERTISED, POSTED, AND PUBLICLY RECORDED OFFER (IN AND OF WHICH PACIFIC, AS BENEFICIARY, WAS A PARTY: THE NOTICE OF TRUSTEE'S SALE).

Due to the foregoing, PACIFIC's Unlawful Detainer action should be declared improper, null, and void, and the subject property should be re-instated to MYER with appropriate sanctions and damages in MYER's favor.

II

THE PARTIES WERE NOTIFIED OF MYER'S PURCHASE OF THE SUBJECT PROPERTY (AS WELL AS HIS CONTINUING OCCUPANCY) AND, THEREFORE, THE MATTER BEING BEYOND THE JURISDICTION OF THE MUNICIPAL COURT

1. See MYER's NOTICE OF SPECIAL CONTINUING APPEARANCE; NOTICE OF MOTION, etc., set for hearing in the Municipal Court on January 6, 1984, including: MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION with its POINTS AND AUTHORITIES, DECLARATION, and JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY; all dated December 29, 1983.

a. The DECLARATION summarizes MYER's ownership claim and challenge to the Municipal Court's jurisidiction on lines 4 - 21 of page 3 of the MOTION, as follows:

"1. I am the owner of the subject property.

2. I was the purchaser of the subject property at the foreclosure sale of same.

3. I have been and am in possession of subject property, and Defendant JOHN RAY WOELKE has NOT been in possession of the subject property at any time pertinent to this case.

4. ....

5. Such Unlawful Detainer is null and void, and inappropriate, due to the foregoing.

6. I have instituted action against [PACIFIC] (and others) in Superior Court...on November 30, 1983, Case Number 41-72-38,...

7. ...this [Municipal] Court does not have jurisdiction to proceed in this matter."

b. The JUDICIAL NOTICE... further documented MYER's appropriate

notices to the party(ies) well in advance of the Unlawful Detainer action, including:

"B. By my letter dated October 28, 1983, [MYER] served constructive NOTICE on the auctioneer and Agent of the BENEFICIARY [PACIFIC]...

C. By said letter...the Trustee was also constructively noticed.

D. By [MYER's] letter dated October 31, 1983,...[PACIFIC] was also noticed,...

G. On November 30, 1983, Owner [MYER] filed a seven-causes of action COMPLAINT... against [PACIFIC] (and others) IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF ORANGE,...CASE NO. 41-72-38,...

J. [PACIFIC] had ample NOTICE of [MYER's] occpancy/ownership of the subject property."

c. Other areas of these pleadings also relate to these notices of purchase/ownership/occupancy/lack of jurisdiction issues.

2. See MYER's NOTICE OF HEARING etc., set for hearing in the Municipal Court on January 20, 1984, including: JUDICIAL NOTICE both dated January 12, 1984, comprising: NOTICE TO THE COURT OF ERROR; NOTICE TO PLAINTIFF'S ATTORNEY; NOTICE OF POSSIBLE FRAUD; NOTICE OF OBJECTIONS; DEMAND FOR QUASH OF SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION; and EXHIBIT "A" (NOTICE OF PENDING ACTION dated and notarized December 7, 1983, and filed in the Orange County Superior Court on December 9, 1983, as part of MYER's previously instituted CASE NO. 41-72-38 in said Superior Court).

a. The JUDICIAL NOTICE further

documented MYER's claims and position including:

(1) On page 2, lines 7 - 8,

"B. [MYER] had had filed suit in Superior Court regarding the purchase, and that such suit is also a RIGHTs issue."

(2) On page 2, lines 17 - 28, including:

"V. JUDICIAL NOTICE... is to be taken of the NOTICE OF PENDING ACTION...filed with the Orange County Recorder,...

A. Said NOTICE was filed in Superior Court on December 9, 1983,...

B. Said NOTICE invalidates this Unlawful Detainer action, ...The Lis Pendens MUST be adjudicated BEFORE [PACIFIC] can assert any Unlawful Detainer action on the subject property."

b. The NOTICE OF PENDING ACTION (EXHIBIT "A") also documents MYER's claims and position on the second page, lines 15 - 20, as follows:

> "The object of [MYER's] action...is to protect the right, title, and interest in the subject property in good faith and with proper purpose, in accordance with his bidding and purchase at the Trustee's Sale on October 28, 1983, as detailed and specified in the COMPLAINT in the action commenced on November 30, 1983,..."

3. See NOTICE OF MOTION, etc., set for hearing in the Municipal Court on January 27, 1984, including: MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION with its POINTS AND AUTHORITIES, DECLARATION, and EXHIBIT "A" (NOTICE OF PENDING ACTION as aforementioned); all dated January 24, 1984.

a. On page 2,...MYER re-documented his purchase, claims, notices,

Superior Court COMPLAINT 41-72-38 and the related Lis Pendens, with JUDICIAL NOTICE to be taken of the JUDICIAL NOTICEs previously filed in the Municipal Court on December 29, 1983, and January 13, 1984.

b. On page 3,...MYER also established:

> ""IF TITLE IS INEVITABLY IN ISSUE IN AN UNLAWFUL DETAINER ACTION, THE ACTION IS NOT WITHIN THE JURISDICTION OF THE MUNICIPAL COURT"
> Asuncion v. Superior Court (1980) 108 Cal.App.3d 141, 146; 166 Cal.Rptr. 306
>
> "Furthermore, the...Asuncion case includes the issues of due process guarantees relative to affirmative defenses "which if proved would maintain...possession and ownership." Such is the issue in the SUPERIOR COURT suit [CASE NO. 41-72-38] aforementioned."

c. On page 4,...and page 5,..., MYER established the following as relative to this case:

""A "LIS PENDENS" IS FOR THE PURPOSE OF GIVING NOTICE OF THE JURISDICTION OR CONTROL WHICH THE COURT ACQUIRED OVER PROPERTY INVOLVED IN A SUIT PENDING THE CONTINUANCE OF THE ACTION"
State v. Washington Dredging & Improvement Co.
86 P. 936, 938; 43 Wash. 508

""THE DOCTRINE OF LIS PENDENS HAS LONG BEEN ESTABLISHED AND RECOGNIZED AS THE GENERAL LAW OF THE LAND UPON THE BROAD PUBLIC POLICY OF MAINTAINING THE STATUS QUO OF RIGHTS AND INTERESTS IN PROPERTY INVOLVED IN LITIGATION, NOT ONLY AS BETWEEN THE PARTIES THERETO BUT AS TO THIRD PARTIES HAVING CONFLICTING INTERESTS, UNTIL THE ACTION PENDING HAS BEEN FINALLY ADJUDICATED."
Cook v. Mozer,
140 N.E. 590, 592;
108 Ohio St 30."

"[NOTE: The "action pending" has NOT been finally adjudicated to this day.]"

d. The DECLARATION...re-iterated MYER's purchase, ownership, possession, Superior Court action, and challenge to the Municipal Court's jurisdiction.

4. See MYER's NOTICE OF MOTION, etc., set for hearing in the Municipal Court on February 17, 1984, including: DECLARATION, MOTION TO VACATE JUDGMENT and DEMAND FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW with POINTS AND AUTHORITIES,....dated February 10, 1984.

a. The DECLARATION re-iterated MYER's ownership, and included the previously filed DECLARATION's.

b. On page 1 (of the P&A),..., MYER re-iterated the previously filed JUDICIAL NOTICEs, NOTICEs and MOTIONs TO QUASH, SPECIAL APPEARANCEs, etc.

c. MYER re-iterated Asuncion , supra, on page 7 (of the P&A),....

d. MYER re-iterated the LIS PENDENS doctrine his ownership/occupancy, and title claim on page 7 (of the P&A),..

NOTE: Judge Moore heard and denied MYER's MOTION TO QUASH on January

6, 1984. Judge Miller heard and denied MYER's MOTION TO QUASH on January 20, 1984.
On January 25, 1984, Judge Moore dismissed MYER's MOTION TO QUASH "ON COURT'S OWN MOTION" (two (2) days before the scheduled hearing date of January 27, 1984), as per the CIVIL MINUTE SHEET and NOTICE OF ORDER both dated January 25, 1984.
On February 10, 1984, Judge Moore dismissed MYER's MOTION TO VACATE JUDGMENT AND FOR FINDINGS "ON COURT'S OWN MOTION" (seven (7) days before the scheduled hearing date of February 17, 1984), as per the CIVIL MINUTE SHEET and NOTICE OF ORDER dated February 15, 1984.

MYER then sought relief by filing appropriate actions as CASE NO. 42-14-46 in the Orange County Superior Court (hereinafter... "OCSC"), in which the Municipal Court (hereinafter..."OCMC") the Respondent, and the Judges therein, were served appropriately, and in which MYER thoroughly re-iterated his ownership/possession/purchase, claim to title, and challenges to the jurisdiction of the OCMC and its findings against him.

5. See MYER's EMERGENCY PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW/JUSTICE EX PARTE filed and heard in OCSC on January 31, 1984, CASE

NO. 42-14-46, including the MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF, and the EXHIBITS ("A" - "M", (items filed in the OCMC) in support thereof; all dated January 30, 1984. ...MYER re-documented his position and claims as stated in the foregoing,....

a. Since title is the ultimate issue in this Unlawful Detainer action, MYER again challenged the jurisdiction of the OCMC in the P&A, page 4,... re-citing the Asuncion case, supra.

b. Since the Lis Pendens ("as the general law of the land" and "the broad public policy") placed the jurisdiction and control of the subject property in the OCSC, MYER again challenged the jurisdiction of the OCMC in the P&A, page 6,..., reciting the State v. Washington Dredging case, supra.

c. In conjunction with sub-item

b, above, the Cook v. Mozer case, supra, was re-cited in the P&A, page 5, ..., through page 6,....

d. The EXHIBITS ("A" - "M") re-asserted all of the foregoing, as well as those appropriate OCMC items which follow.

NOTE: The OCSC Judge Franks did not grant the WRIT requested EX PARTE EMERGENCY PETITION, but on February 9, 1984, he scheduled the matter for hearing on March 12, 1984, in Department 23 of the OCSC.

6. See MYER's PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW/JUSTICE dated on February 21, 1984, and filed on February 22, 1984, in the OCSC (CASE NO. 42-14-46) for hearing on March 12, 1984....This PETITION also included the previously served and filed MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF and the EXHIBITS ("A" - "M", (items filed in the OCMC) in support..., dated January

30, 1984: herein MYER re-documented his position and claims (as noted in the above item 5, and its sub-items a - d).

7. ....

8. On June 1, 1984, MYER served and filed as part of OCSC CASE NO. 42-14-46 NOTICE OF MOTION FOR ORDER FOR ABATEMENT OF MUNICIPAL COURT PROCEEDINGS OR IN THE ALTERNATIVE STAY OF MUNICIPAL COURT PROCEEDINGS for hearing on June 28, 1984, including: MEMORANDUM OF POINTS AND AUTHORITIES and DECLARATION in support thereof; all dated on June 1, 1984, ...MYER re-iterated his ownership/purchase/possession/right of possession and title claim....

a. Asuncion, supra, was re-asserted on P&A page 6,..., including an additional quote on P&A page 6,..., from the same citation:

"...homeowners cannot be evicted, consistent with due process guarantees, without being permitted to raise the affirmative defenses which if proved would maintain their possession and ownership."

This quote was also used by OCSC Judge Sheffield in his ORDER for this CASE NO. 42-14-46, dated and filed on April 2, 1984, on page 2,....

b. In the P&A, page 6,..., MYER asserted: "THE COURT HAS NO JURISDICTION OF THE SUBJECT OF THE CAUSE OF ACTION ALLEGED (CCP Sec. 430.10 (a))"

and on... page 6 of the P&A:

""[The] court has no jurisdiction to hear or determine a case where the type of proceeding or the amount in controversy is beyond the jurisdiction defined for that particular court by statute or constitutional provision."
(Abelleira v. District Court of Appeal (1941) 17 C.2d 280, 288)"

c. On page 7 of the P&A,... MYER re-asserted the Lis Pendens doctrine, including the following quotations:

> ""A lis pendens is for the purpose of giving notice of the jurisdiction or control which the court acquires over property involved in a suit pending the continuance of the action." (Washington Dredging & Improvement Co. v. Kinnear et al. (1901) 64 Pac.Rptr. 522)....
>
> ""This doctrine is sound and wholesome, in that it preserves the status quo of all conflicting rights and interests in the property in question until there is a final adjudication of the issues raised in the pending suit." (Cook et al. v. Mozer (1923) 140 N.E. 590, 592.) ...."

d. The on page 11, P&A concluded with...:

> "...while the state does have a significant interest in preserving a speedy repossession remedy, that interest cannot justify the ex-

clusion of matters which are essential to a just resolution of the question of possession at issue. As the Court of Appeals observed in Abstract Investment Co. v. Hutchinson (1962) 204 Cal. App.2d 242, 249 [22 Cal. Rptr. 309]:

"Certainly the interest in preserving the summary nature of an action cannot outweigh the interest of doing substantial justice. To hold the preservation of the summary proceeding of paramount importance would be analogous to the 'tail wagging the dog.'""

(Green v. Superior Court (1974) 10 C.3d 616, 636; 111 Cal.Rptr. 704; 517 P.2d 1168.)"

9. MYER re-iterated his position in his PURGATORY OATH AND DECLARATION OF JEREMY MYER FOR CLARIFICATION OF RECORD for the OCSC CASE NO. 42-14-46 hearing on June 28, 1984, including the MEMORANDUM OF POINTS AND AUTHORITIES in support thereof, dated June 6, 1984, and served and received in the OCSC on June 7, 1984.

The Asuncion and Abelleira cases, supra, were requoted under "THE TITLE ISSUE; NO JURISDICTION FOR MUNICIPAL COURT" in the P&A, page 11,..., [into] page 12,....

10. ....

11. ....

a. ....

b. However, said...[Notice of Trustee's Sale]...does NOT specify any "MINIMUM" bid at all,....

As BENEFICIARY, PACIFIC was a party to the document. MYER clearly shows in his OCSC CASE NO. 41-72-38 that he purchased said property in strict accordance with said NOTICE OF TRUSTEE'S SALE, and that the OCMC could not have properly, legally or lawfully proceeded in the matter at all, by PACIFIC's own prima facie evidence.

12. ....

NOTE: Due to the prescribed limits of this OPENING BRIEF, not all of the events and case citations can be included. However, some of the essential material has been referenced, as well as the sequence of events and filings. The following Sections could all be substantively larger based on the OCMC CASE NO. A 73032 and OCSC CASE 42-14-46 files, and MYER respectfully requests the Appellate Court to review such files for their completeness, as well as his OCMC POINTS TO BE RAISED ON APPEAL, etc.

....

III

INSUFFICIENCIES OF SERVICES OF THREE-DAY NOTICE AND SUMMONSES AND COMPLAINTS DENY THE MUNICIPAL COURT JURISDICTION AND PACIFIC ANY VALID CAUSES OF ACTION

1. Throughout the pleadings as noted in Section II, items 1 - 12, above, MYER documented the facts of the insufficiencies of the services of the Three-Day Notice to Quit and all of the Summonses and Complaints, including PACIFIC's attempted re-service on January 19, 1984. MYER spelled out that: PACIFIC

had known who he was well prior to the Unlawful Detainer action by MYER's correspondence in October, 1983, and his prior suit (OCSC CASE NO. 41-72-38) of November, 1983; there was not, and never had been, any relationship with WOELKE and MYER, yet MYER had been in occupancy and possession of the subject premises, at all times prior and subsequent to both the Trustee's Sale and the Unlawful Detainer action; due to these first two (2) items, and MYER's purchase/ownership status, his not being named as a defendant by PACIFIC was constructive exclusion of him being a "DOE" either; none of PACIFIC's paperwork was served properly: there was no posting of the Three-Day Notice; there was no follow-up mail service of any of the items, as required; there was no landlord/tenant relationship; there was no precise amount of

'rent' demanded; and other items. MYER supported his position with the following case law (which was also used in several of the pleadings):

> Where an insufficient three-day notice is served, the complaint fails to state a cause of action. Strict compliance with the statutory provisions relating to the three-day notice to quit is a pre-requisite to seeking the summary remedy of unlawful detainer.
> Baugh v. Consumers Associates, Ltd. (1966)
> 241 Cal.App.2d 672, 675;
> 50 Cal.Rptr. 822.
>
> In an unlawful detainer action, the plaintiff must prove that a landlord / tenant relationship exists.
> Klein v. Loeffler (1929)
> 96 Cal.App. 383, 385; 274 P.373.
>
> A complaint in an unlawful detainer proceeding must plead the fact that a landlord-tenant relationship exists between the parties.
> Frederisksen v. McCosker
> (1956) 143 Cal.App.2d 114, 117-118; 299 P 2d 908.
>
> The failure to properly serve (three-day quit) notice on persons recognized as tenants in

possession of the premises requires a judgment in their favor in the unlawful detainer action.
Kwok v. Bergren, (1982)
130 Cal.App.3d 596, 600;
161 Cal.Rpt. 795.

One who seeks the summary remedy of unlawful detainer allowed by the statute must bring himself clearly within its terms.
Horton-Howard v. Payton (1919)
44 Cal.App. 108, 112; 186 P. 167

IV

BECAUSE OF MYER'S PURCHASE, THERE WAS NO VALID 'PERFECTION OF TITLE' AND, THEREFORE, NO MUNICIPAL COURT JURISDICTION AND NO VALID CAUSES OF ACTION MYER'S "SPECIAL APPEARANCES" DENIED ANY JURISDICTION TO THE MUNICIPAL COURT IN PERSONAM AND/OR IN REM

1. In his NOTICE OF SPECIAL CONTINUING APPEARANCE dated, served, and filed in OCMC on December 29, 1983, on page 1,..., [into] page 2,..., MYER noted:

"I respectfully object to the jurisdiction and/or authority of this Court both over the subject matter and/or my person. I DEMAND ALL OF MY RIGHTS AND I DO NOT WAIVE ANY OF THEM!"

2. MYER's Lis Pendens and OCSC suit CASE NO. 41-72-38, which included SPECIFIC PERFORMANCE as a proper cause of action for MYER to proceed in the issue of title, placed the entire matter before the OCSC, where it properly belonged.

V

MYER AND FAMILY WERE NOT IN DEFAULT; THEREFORE THE MUNICIPAL COURT'S "DEFAULT" DECISIONS WERE IMPROPER, AND OF NO LEGAL FORCE AND/OR EFFECT

MYER appeared at all times, "SPECIALLY" in the first two OCMC hearings, and filed appropriate DEMANDS/ MOTIONS in response to all of PACIFIC's (albeit invalid) SUMMONSES AND COMPLAINTS, yet the Judge found against MYER by DEFAULT "ON COURT'S OWN MOTION" (twice, supra). CCP Secs. 369 - 371 specifically allow for MYER to have handled the OCMC procedures as husband/head of household/ father, and MYER claims that as a matter

of RIGHT, regardless.

VI

MYER WAS IGNORED AND NOT GIVEN PROPER ADJUDICATION OF THE ISSUES OF LAW, FACT, AND PROCEDURE

1. MYER's issues have NOT been substantively addressed in either the OCMC or the OCSC: VIOLATIONS IN PACIFIC'S UNLAWFUL DETAINER ACTION WERE ALLOWED TO STAND, REGARDLESS OF MYER'S POSITION.

2. ....

VII

MYER WAS 'VEXATIOUSLY HARASSED' BY PACIFIC VIA THE UNLAWFUL DETAINER ACTION AS IMPROPER 'MULTIPLICITY OF SUIT'

1. PACIFIC should have awaited the outcome of the OCSC CASE NO. 41-72-38 before bringing the Unlawful Detainer.

> The controlling rule in this case, however, is that the pendency of another action growing out of the same transaction...is a ground for abatement of the second action but never for abatement of the first." (Cita-

tions) "The underlying theory of the plea of another action pending is that the first action will normally be an ample remedy, and the second action... is therefore unnecessary and vexatious. (Our italics.)" (Citations) [Italics replaced with underlines.] California Union Ins. Co. v. Trinity River Land Co. (1980) 105 Cal.App.3d 104, 108-109; 163 Cal.Rptr. 802.

VIII

THE ISSUES OF TITLE, LAW, FACT, AND PROCEDURE WERE CLEARLY BEYOND SUMMARY PROCEEDING AND JURISDICTION OF UNLAWFUL DETAINER CLERK'S WRIT OF POSSESSION AND MARSHAL'S OFFICE NOTICE TO VACATE WERE EX-JURISDICTION WITH NO LEGAL/LAWFUL SUFFICIENCY

IT APPEARS THAT PACIFIC ATTEMPTED TO 'PERFECT TITLE'

Attached to PACIFIC'S REQUEST TO ENTER DEFAULT and the APPLICATION FOR IMMEDIATE WRIT OF POSSESSION BY CLERK UNLAWFUL DETAINER, all dated and filed in OCMC on August 24, 1984, is the TRUSTEE'S DEED UPON SALE supposedly transferring the ownership of the subject

property via MAR VISTA FINANCIAL INC. (Trustee) to PACIFIC. SAID DOCUMENT IS DATED NOVEMBER 29, 1983, --- EIGHT (8) DAYS AFTER THE THREE-DAY NOTICE which states that "Title has been Duly Perfected" --- and recorded on December 1, 1983. CLEARLY, PACIFIC/ATTORNEY HAS PERPETRATED FRAUD!!!!!

XI

OTHER IRREGULARITIES IN THE PROCEEDINGS MYER AND HIS FAMILY HAVE BEEN SIGNIFICANTLY DAMAGED AS TO PROPERTY AND RIGHTS BY PACIFIC AND THE MUNICIPAL COURT

CONCLUSION

Due to all of the foregoing, as well as the records in this matter, PACIFIC's UNLAWFUL, ILLEGAL, CAPRICIOUS, AND MALICIOUS Unlawful Detainer action should be declared improper, null, and void, and the subject property should be reinstated to MYER with appropriate sanctions and damages in MYER's favor.

Date: January 17, 1985.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	
v.	Civil Action No. AP-4726
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	
JEREMY MYER, et al., Appellant,	
v.	APPELLANT'S REPLY BRIEF
PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Appellee.	

[APPELLANT'S OPENING BRIEF under previously assigned CASE NO. AP-4482]

On Appeal from Default Judgment, Proceedings, and Decisions in the Municipal Court of Orange County, North Orange County Judicial District, State of California, [Municipal Court CASE NO: A 73032]

TABLE OF CONTENTS

Section	Title	Page
	TABLE OF AUTHORITIES	ii
I	INTRODUCTION	1
II	STATEMENT OF FACTS	2
III	THE MUNICIPAL COURT IMPROPERLY ASSUMED JURISDICTION OF THE UNLAWFUL DETAINER ACTION, THE SUBJECT PROPERTY, AND THE PERSONS OF MYER AND HIS FAMILY DUE TO THE PENDENCY OF THE KNOWN PRIOR SUPERIOR COURT ACTION, MYER'S PURCHASE OF THE SUBJECT PROPERTY, THE INSUFFICIENCIES OF SERVICES OF THE THREE-DAY NOTICE TO QUIT AND ALL SUMMONSES AND COMPLAINTS, THE LACK OF ANY DULY PERFECTED TITLE PRIOR TO THE THREE-DAY NOTICE TO QUIT, ET AL.	3
IV	CONCLUSION	8

I

INTRODUCTION

....

The basis of MYER's appeal is that the Municipal Court improperly assumed jurisdiction in the matter, acted improperly and ex-jurisdictionally in its decisions, improperly allowed the issuance of the 'eviction' notice, et al., that PACIFIC had no valid, legal, and/or lawful title, claim, or cause of action to have brought the Unlawful Detainer action; that PACIFIC had not duly perfected title as appropriate to such action; that the Municipal Court and PACIFIC exceeded the summary nature and proceedings of 'Unlawful Detainer' since there was no duly perfected title, there was no valid Three-Day Notice to Quit and such Three-Day Notice and the Summonses and Complaints were insufficient as to

their services; neither MYER nor anyone in his household was in default at any time; that MYER is the true purchaser of the subject property; and related items as set forth in the records.

....

MYER's OPENING BRIEF and all of the Court records clearly support this INTRODUCTION.

II

STATEMENT OF FACTS

....

PACIFIC admitted MYER's purchase and claim to the subject property via its Demurrers to both the original Complaint and the First Amended Complaint filed in the Orange County Superior Court CASE NO. 41-72-38 (also see RESPONDENT'S BRIEF (undated) filed in this CASE NO. AP-4726, page 3, lines 17 - 20).

MYER, as purchaser, could not legally and/or lawfully be treated as a "holdover", and the Unlawful Detainer action could not properly be started and/or proceed until MYER's status was resolved.

PACIFIC has not answered MYER's challenges as to the invalidities of the Three-Day Notice to Quit, the insufficiencies of services of the Summonses and Complaints, the lack of any duly perfected title (INCLUDING THE MUNICIPAL COURT RECORD WHICH SHOWS AN ATTEMPTED PERFECTION OF TITLE EIGHT (8) DAYS AFTER THE DATE OF THE THREE-DAY NOTICE TO QUIT, OR WHICH A DULY PERFECTED TITLE IS A PREREQUISITE BY LAW, and all such other items which MUST OCCUR PRIOR in order for any Unlawful Detainer to proceed on the requisite jurisdictional foundation.

Thus, it is a STATEMENT OF FACT that the courts proceeded against MYER ex-jurisdictionally and, therefore, MYER is appealing from the entire matter.

III

THE MUNICIPAL COURT IMPROPERLY ASSUMED JURISDICTION OF THE UNLAWFUL DETAINER ACTION, THE SUBJECT PROPERTY, AND THE PERSONS OF MYER AND HIS FAMILY DUE TO THE PENDENCY OF THE KNOWN PRIOR SUPERIOR COURT ACTION, MYER'S PURCHASE OF THE SUBJECT PROPERTY, THE INSUFFICIENCIES OF SERVICES OF THE THREE-DAY NOTICE TO QUIT AND ALL SUMMONSES AND COMPLAINTS, THE LACK OF ANY DULY PERFECTED TITLE PRIOR TO THE THREE-DAY NOTICE TO QUIT, ET AL.

....

...the records clearly show that the Municipal Court did not properly examine title, or any other facts which MYER presented, as pertains to THE LAW, --- that PACIFIC NEVER PROVED ACQUISITION OF TITLE TO ANY EXTENT, LIMITED OR OTHERWISE under CCP Section 1161a --- otherwise said Court MUST have properly declined jurisdiction, and that the summary nature of

the Unlawful Detainer action does not allow the Plaintiff in such action, or the Court, to proceed without title having been duly perfected, without proper services of Summonses and Complaints, and so forth.

....

FACT: There was no duly perfected title!
There was no valid Three-Day
Notice to Quit!
THERE WAS NO PRE-REQUISITE
JURISDICTION.

....

And that: An attorney is an OFFICER OF THE COURT! 7 Am. Jur. 2d, ATTORNEYS AT LAW, Sections 2 and 5.

And that: ALL attorneys, by virtue of their FREE WILL OATH, MUST AT ALL TIMES OPERATE BY LAW, AT LAW, and WITHIN THE LAW!

....

Furthermore,..., it can be seen that MYER's purchase at the Trustee's Sale was and is a complicated ownership issue, which MYER tried to convey to the Municipal Court on at least four (4) occasions, plus MYER's actions in the Superior Court, which is precisely one of the items of Asuncion, supra:

> ...the summary unlawful detainer action is not a suitable vehicle to try complicated ownership issues involving assertions of fraud and deceptive practices...

....

....

PACIFIC never established itself as being a proper plaintiff;

PACIFIC never established itself as being the proper purchaser of the subject property;

PACIFIC never "duly perfected title", nor did it do so pre-requisite to

the THREE-DAY NOTICE TO QUIT.

....

...Asuncion clearly maintains that:

> ...homeowners cannot be evicted, consistent with due process guarantees, without being permitted to raise the affirmative defenses which if proved would maintain their possession and ownership....Accordingly, title to the property is inevitably in issue in this unlawful detainer action, and the action is not within the jurisdiction of the municipal court.
> Asuncion v. Superior Court, (1980) 108 Cal.App.3d 141, 146; 166 Cal.Rptr. 306.

....the Municipal Court decided against MYER (and his family) four (4) times before MYER even approached the Superior Court with the Unlawful Detainer issue, and this court also proceeded without paying due heed to the jurisdictional and 'duly perfected title' issues raised by MYER.

NOTE: Judge Moore refused to settle Myer's Proposed Settled Statement as part of the appeal process.

IN SUMMARY, PACIFIC and so forth have totally violated every facet of the summary proceeding of Unlawful Detainer and,..., CAN THIS BE CONDONED???!!! LAWFULLY AND/OR LEGALLY???!!!

Are we a Nation of LAWS, or are we a 'nation' of men?

IV

CONCLUSION

....

THEREFORE, the holding of the lower court was improper and should be reversed in accordance with the conclusion in the APPELLANT'S OPENING BRIEF.

Dated: February 16, 1985.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	
v.	Civil Actio No. AP-472
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	
JEREMY MYER, et al., Appellant,	DATE: March 28, 1985
v.	DEPT: 25
PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Respondent.	

APPELLANT'S NOTICE OF MOTION
TO HAVE HIS PROPOSED SETTLED STATEMENT
AS FILED IN THE MUNICIPAL COURT
(EXHIBIT "X", ATTACHED)
FORMERLY ACCEPTED BY THE COURT
AS IF CERTIFIED IN THE ALTERNATIVE,
TO ORDER THE JUDGE OF THE
MUNICIPAL COURT TO CERTIFY IT,
OR, IN THE SECOND ALTERNATIVE,
ORDER THAT A STIPULATED RECORD BE
PROVIDED; MEMORANDUM OF
POINTS AND AUTHORITIES
IN SUPPORT THEREOF

TO: [Pacific] and [Pacific's] attorney of record.

PLEASE TAKE NOTICE THAT: ...Myer, on behalf of himself and his family, will move this Court to formerly accept as if certified his APPELLANT'S STATEMENT OF ISSUES TO BE RAISED ON APPEAL AND PROPOSED SETTLED STATEMENT, and DECLARATION, (EXHIBIT "X",...) dated and filed in the Municipal Court (CASE NO. A 73032) on October 17, 1984;

OR, IN THE ALTERNATIVE, an Order is to issue mandating the Judge of the Municipal Court to certify said documents;

OR, IN THE SECOND ALTERNATIVE, an Order is to issue mandating that a stipulated record is to be provided.

Said Motion will be made and based on the grounds as stated in APPELLANT'S OPENING BRIEF; APPELLANT'S REPLY BRIEF; the attached MEMORANDUM OF POINTS AND AUTHORITIES; the pleadings, records and files in this action;....

Dated: March 17, 1985.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

APPELLANT'S POINTS AND AUTHORITIES

I

INTRODUCTION

1. On October 17, 1984, Appellant filed his APPELLANT'S STATEMENT OF ISSUES TO BE RAISED ON APPEAL AND PROPOSED SETTLED STATEMENT, and DECLARATION, (EXHIBIT "X",...) dated October 17, 1984, in the Municipal Court (CASE NO. A 73032) in accordance with California Rules of

Court, Rule 127 (a).

2. On October 31, 1984, Appellant received from the Clerk of the Municipal Court (CASE NO. A 73032) a NOTICE OF HEARING "on 11-29-84 at 1:30 P.M., in Division No. 18 " dated and filed in the subject Court October 30, 1984.

3. At said hearing, in the presence of Linda Nunez, Attorney for [Pacific].., Judge...of said Municipal Court REFUSED to settle [Myer's] documents.

4. [Myer] believes that this non-action, coupled with other procedural, rights, and law violations against [Myer] and his household, should warrant that [Myer's] documents (EXHIBIT "X",...) be formerly accepted as correct without further delay.

II

THE MUNICIPAL COURT
IS A CONSTITUTIONAL COURT
AND A COURT OF RECORD

5. In Uridias v. Morrill (1863) 22 Cal. 473, 478, the State Supreme Court noted that the term "municipal court" as employed in the constitutional provision granting express permission for the legislature to establish Municipal Courts, has a legal meaning.

6. Also: Municipal Courts are courts of record. (Wilson v. Walters, (1941) 19 Cal.2d 111; 119 P. 2d 340; and Villanazul v. Los Angeles (1951) 37 Cal.2d 718; 235 P. 2d 16.)

7. The Supreme Court of California has affirmed that:

> Every one has a RIGHT TO DEMAND that he be governed by general rules; and a special statute that singles his case out as one to be regulated by a different law from that which is applied in all similar cases would not

be legitimate legislation, but an ARBITRARY MANDATE, UNRECOGNIZED BY THE LAW."
(Emphasis added.)
Ex parte Jentzsch (1896)
44 Pac.Rptr. 803, 805.

III

THE MUNICIPAL COURT JUDGE WAS ARBITRARY AND BEYOND HIS POWERS BY REFUSING TO SETTLE THE STATEMENT

8. If the Appellant has prepared a statement, even if deficient, that contains those portions of the oral proceedings WHICH HE DEEMS MATERIAL to the determination of his points on appeal, the Court may not strike it out, but MUST proceed to settle it (Stevens v. Superior Court (1958) 160 Cal.2d 264, 268; 325 P.2d 204; Sweet v. Markwart (1953) 115 Cal.2d 735, 742, 743; 252 P.2d 751).

9. [Myer] had prepared a statement, as part of the record, that contains those portions of the oral proceedings

WHICH HE DEEMS MATERIAL TO THE DETERMIN
TION OF HIS POINTS ON APPEAL, and by n
settling it, the Municipal Court Jud
acted arbitrarily.

10. Full and plenary power over t
Settled Statement Record is reposed
the trial judge, SUBJECT ONLY TO T
LIMITATION THAT HE DOES NOT ACT ARBITR
RILY (Keller v. Superior Court (1950)
100 Cal.2d 231, 234; 223 P.2d 309).

11. The trial judge may not arbitr
rily refuse to settle the Proposed Stat
ment for use on appeal, unless there
some justifiable excuse (Sidebotham v.
Superior Ct. In and For City and Coun
of S. Francisco (1958) 326 P. 2d 890;
161 Cal.2d 624).

IV

CONCLUSION

WHEREFORE, for the reasons as stat
above, and for other violations of t

proceedings as documented in the records, Appellant prays this Court to formerly accept his aforementioned APPELLANT'S STATEMENT OF ISSUES TO BE RAISED ON APPEAL AND PROPOSED SETTLED STATEMENT, and DECLARATION, (EXHIBIT "X",...) as part of the record on appeal as if certified;

OR, IN THE ALTERNATIVE, an Order should issue mandating the Municipal Court Judge to certify it as is;

OR, IN THE SECOND ALTERNATIVE, an Order should issue mandating that a stipulated record of the attached be provided.

Dated: March 17, 1985.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	Civil Actio No. AP-472
JEREMY MYER, et al., Appellant, v. PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Respondent.	DATE: March 28, 198 DEPT: 25

APPELLANT'S NOTICE OF MOTION TO HAVE THE SUBJECT PROPERTY IMMEDIATELY RETURNED TO HIM AND HIS FAMILY FOR THEIR QUIET AND PEACEFUL ENJOYMENT; AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

TO: [Pacific] and [Pacific's]
attorney of record.

PLEASE TAKE NOTICE THAT: ...Myer, on behalf of himself and his family, will move this Court for an Order to have the subject property immediately returned to him and his family for their quiet and peaceful enjoyment.

Said Motion will be made and based on the grounds as stated in APPELLANT'S OPENING BRIEF; APPELLANT'S REPLY BRIEF; the attached MEMORANDUM OF POINTS AND AUTHORITIES; the pleadings, records and files in this action;....

Dated: March 17, 1985.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

POINTS AND AUTHORITIES

In the interest of not duplicating what has been written thus far, APPEL-

LANT'S OPENING BRIEF and APPELLANT'
REPLY BRIEF, as filed in this CASE, ar
included by their reference as if full
set forth herein, and are the POINTS AN
AUTHORITIES for the Motion.

Dated: March 17, 1985.

Respectfully submitted

Jeremy Myer
Appellant, In Pro Per

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	
v.	Civil Action No. AP-4726
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	
JEREMY MYER, et al., Appellant,	(Superior Ct. No. 42-14-46)
v.	
PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATIRON, Respondent.	(Municipal Ct. No. A 73032)

APPELLANT'S PETITION FOR REHEARING
OR CERTIFICATION TO THE COURT OF APPEAL

Appellant, JEREMY MYER, hereby Petitions this Court for Rehearing or Certification to the Court of Appeal of the above-captioned matter. Said Petition is made pursuant to Rules 63 and 107, California Rules of Court, and is based upon

this Petition, and the files, records an pleadings in this action.

[Myer] contends that the Municipa Court erred in assuming jurisdiction o the Unlawful Detainer action, the subjec property, and the persons of [Myer] an his family due to the pendency of th known prior Superior Court Action [Myer's] purchase of the subject prop erty, the insufficiencies of services o the Three-Day Notice to Quit and AL Summonses and Complaints, the lack of an duly perfected title prior to the Three Day Notice to Quit, and so forth A CLEARLY DOCUMENTED IN THE RECORDS AND A REQUIRED BY LAW!

[Myer] contends that the erring o the Municipal Court as stated abov violates his UNALIENABLE RIGHTS as a fre

and independent person to acquire, possess, and protect PROPERTY, and to pursue and obtain safety, happiness, and privacy as guaranteed by Article I, Section 1, of the Constitution of the State of California, and that such error cannot be ignored by this Court. [Myer] further contends that the erring of the Municipal Court deprived him (and his family) of PROPERTY without due process of law and denied him (and his family) EQUAL PROTECTION OF THE LAWS as mandated by Article I, Section 7(a), of the Constitution of the State of California, and that such error also requires reversal of the results and judgments of the proceedings which forced [Myer] and his household from the subject premises. In this regard, [Myer] additionally contends that such DEPRIVATION OF PROPERTY AND DENIAL OF EQUAL PROTECTION OF THE LAWS resulted

because THE LAW was not applied at all.

[Myer] also contends that the erri
of the Municipal Court which resulted
the findings against and the ousting
[myer] and his household from the subje
property violates Article I, Section 7(
of the Constitution of the State of Cal
fornia which precludes a citizen or cla
of citizens from being granted privileg
or immunities not granted on the sa
terms to all citizens and, for this err
the Municipal Court action should
reversed and the subject property r
stored to [Myer] and his household.

The summary proceeding of the Unla
ful Detainer REQUIRES very strict adhe
ance to the pre-requisites of Perfecti
of Title which was lacking and witho
which the complaint fails to state

cause of action (Baugh v. Consumers Associates, Ltd. (1966) 241 Cal.App.2d 672, 675; 50 Cal. Rptr.822). Such summary proceeding also requires proper services of the Three-Day Notice to Quit, the Summonses and Complaints, and one seeking such remedy MUST bring himself CLEARLY within its terms (Kwok v. Bergren, (1982) 130 Cal.App.3d 596, 600; 161 Cal.Rptr. 795; Horton-Howard v. Payton, (1919) 44 Cal.App.108, 112; 186 P. 167).

Furthermore, since a complicated title issue was involved, the Municipal Court had no jurisdiction to hear or determine the case (Abelleira v. District Court of Appeal (1941) 17 Cal.2d 280, 288; Asuncion v. Superior Court (1980) 108 Cal.App.3d 141, 146; 166 Cal. Rptr.306).

The Municipal Court's actions an decisions further violated Article I Section 9, of the Constitution of th State of California in that there can b no law impairing the OBLIGATION OF CON TRACTS. Not only does [Myer] conten that [Pacific] breached a contract wit [Myer] and the obligations thereof, amon other issues, [Myer] further contend that the Municipal Court impaired it OBLIGATIONS AND DUTIES in its conduct o the matters, and the expectation tha [Myer] should normally expect that TH LAW is to be followed by the COURTS O CALIFORNIA IN THE UNITED STATES OF AMERI CA, including the procedures of the sum mary nature of the Unlawful Detainer Such also require this Court to direct reversal of the Municipal Court's action and decisions.

[Myer] additionally contends that the erring of the Municipal Court violates his (and his family's) RIGHT TO BE SECURE IN THEIR PERSONS, HOUSES, PAPERS, AND EFFECTS as intended by Article I, Section 13, of the Constitution of the State of California and that such error also requires reversal of the Municipal Court actions and decisions.

[Myer] further contends that Article XX, Section 3, of the Constitution of the State of California was violated by the errors of the Municipal Court: that the oaths to "bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California" were not upheld and, in fact, were violated by the Municipal Court's actions and decisions further requiring reversal of its actions and decisions.

[Myer] also contends that the errors of the Municipal Court violate Article III, Section 1, of the Constitution of the State of California, which CLEARLY states that: "The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land." Such errors also require this Court to direct a reversal on these counts.

To summarize, the violations of the United States Constitution include:

1. Article I, Section 10, clause 1, on impairing the obligation of contracts by and between the parties (and others).

2. Article VI, clause 2, on the supreme law of the land since [Myer's] RIGHTS, THE LAW, and related statutes and procedures were violated as the records CLEARLY show.

3. Amendment IV, Section 1, on the RIGHT of [Myer] and his family to be secure in their persons, houses, papers, and effects.

Should this Court decline to entertain a rehearing of this matter, [Myer] requests that the case be certified to the Court of Appeal in order to settle the important questions of THE LAW raised by this Appeal.

The following settled rules of LAW, case law, and maxims were violated by the rulings of the Municipal Court (CASE NO. A 73032) and by the rulings of the Superior Court (related CASE NO. 42-14-46):

1. By the Municipal Court assuming jurisdiction and the Superior Court not correcting such assumptions upon appropriate Petitions, [Myer's] SPECIAL (and

NOT general) appearances wherein he asserted ALL of his RIGHTS, including those RIGHTS, and his objections to the jurisdiction and/or authority of the Municipal Court both over the subject matter and/or his person, were violated by the proceedings and the results thereof since such are secured by the Magna Carta, The Bill of Rights of 1689, The Declaration of Resolves of the First Continental Congress of October 14, 1774, The Declaration of Causes and Necessity of Taking up Arms of 1775, The Declaration of Independence, The Articles of Confederation, The Treaty of Peace with Great Britain of 1783, The Northwest Ordinance of 1789, The Constitution of the United States (including ALL RIGHTS as guaranteed and secured therein, including the Fourteenth Amendment), and the Constitution and Law of this State

not inconsistent with any of the foregoing. (See [Myer's] NOTICE OF SPECIAL CONTINUING APPEARANCE dated and filed in the Municipal Court on December 29, 1983, and other appropriate filings by [Myer] as are in the records.)

2. As per [Myer's] MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION; POINTS AND AUTHORITIES; DECLARATION; JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY; as SPECIAL APPEARANCE; dated and filed in the Municipal Court on December 29, 1983, and other appropriate filings by [Myer] as are in the records (such documents positively notifying the Municipal Court and establishing the record as to [Myer's] purchase, ownership, and possession of the subject property, as well as insufficiencies of services):

The Constitution of the United States is the supreme law of the land, and binds every forum whether it derives its authority from a State or from the United States.
Cook v. Moffat et al., (1847) 5 How (46 U.S.) 295, 308; 12 L.Ed. 159, 165.

The Constitution of the United States and all laws enacted pursuant to the powers conferred by it on the Congress are the supreme law of the land (U. S. Const., art. VI, sec. [SIC] 2) to the same extent as though expressly written into every state law.
People ex rel Happel v. Sischo (1943) 23 Cal.2d 478, 491; 144 P.2d 785, 791.

Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them
Miranda v. Arizona, (1966) 384 U.S. 436, 491; 86 S.Ct.1602; 16 L.Ed 694.

"II. JUDICIAL NOTICE is to be taken of the NOTICE OF CONTINUING SPECIAL APPEARANCE, and the NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION (and the POINTS AND AUTHORITIES and DECLARATION)...."

"III. JUDICIAL NOTICE is to be

taken...

A. I, ...MYER, purchased the subject property at the Trustee's Sales on October 28, 1983.

B. ...

I ALSO NOTIFY YOU THAT I AM IN POSSESSION OF SAID PROPERTY,..."

Various correspondence as described.

"G. On November 30, 1983, Owner...MYER filed a seven-causes of action COMPLAINT... against [Pacific] (and others) IN THE SUPERIOR COURT...pertinent to the subject property... CASE NO. 41-72-38,....

H. Said COMPLAINT includes the statement that: [MYER] WAS, AND IS, FOR ALL MATTERS OF THIS COMPLAINT, THE RESIDENT OCCUPANT OF THE SUBJECT PREMISES."

Other appropriate items, including insufficiency of service of Three-Day Notice to Quit.

"N. On December 9, 1983, [MYER] filed a NOTICE OF PENDING ACTION with the Orange County Recorder, and with the Superior Court ...to supplement CASE NO. 41-72-38...."

Other appropriate items, including insufficiency of service of the SUMMONS and COMPLAINT --Unlawful Detainer (left in the

mailbox, but not mailed).

"P. ...

5. In compliance with CC Sec. 2924 et. seq., [MYER] purchased the subject property at the foreclosure sale.

6. [Pacific's] 'perfection of title' is a fraud.

7. Items 4 through 8 of the COMPLAINT--Unlawful Detainer are invalid and fraudulent."

Other appropriate items pointing out invalidities of the COMPLAINT--U.D., its service, lack of landlord/tenant relationship, and so forth.

"IV. JUDICIAL NOTICE is to be taken that...Owner...MYER believes that [PACIFIC] AND [PACIFIC'S] ATTORNEY ARE HARASSING HIM AND PERPETRATING A FRAUD ON BOTH HIM AND THIS COURT BY BRINGING THIS UNLAWFUL DETAINER ACTION.

V. JUDICIAL NOTICE IS TO BE TAKEN THAT:

...the SUMMONS and COMPLAINT --Unlawful Detainer...were not received until December 26, 1983 in the mailbox of said property --- and not by mail.

VI. JUDICIAL NOTICE IS TO BE TAKEN THAT:

1. Attorneys are officers of the court, and must know and obey the LAW:

52 Cal.Jur.3d, Sec.173 Duty to obey the law:

> It is elementary that public officers must obey the law. (Wirin v. Parker 48 Cal.2d 890; 31 P. 2d 844)
>
> The United States Supreme Court has repeatedly asserted that all officers of the government from the highest to the lowest are creatures of the law and bound to obey it. (63 Am.Jur.2d, PUBLIC OFFICERS AND EMPLOYEES SEC. 277)

2. In U.S. v. Nixon, it was stated that:
'...for we are not a country of men but we are a COUNTRY OF LAWS AND ALL MUST FOLLOW THEM, including the highest men in office'.

3. Where there is no jurisdiction there is no judge; THE PROCEEDING IS AS NOTHING. Manning v. Ketcham 58 F. 2d 948. (Emphasis added.)

VII. JUDICIAL NOTICE is to be taken that [Pacific] has NO CAUSE OF ACTION to pursue this Unlawful Detainer action."

3. As per [Myer's] NOTICE OF HEARING JUDICIAL NOTICE NOTICE TO THE

COURT OF ERROR; NOTICE TO [PACIFIC'S] ATTORNEY; NOTICE OF POSSIBLE FRAUD; NOTICE OF OBJECTIONS; DEMAND FOR QUASH OF SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION. S P E C I A L A P P E A R A N C E dated January 12, 1984, and filed with the Municipal Court on January 13, 1984:

> "NOTICE IS HEREBY GIVEN that Owner,...MYER, appears SPECIALLY and not generally to give JUDICIAL NOTICE,..." and so forth. Previous filings were included by their reference and [Myer] re-asserted his ownership claim, possession, and related matters showing the impropriety and insufficiency of the Unlawful Detainer action.
>
> "V. JUDICIAL NOTICE and other appropriate NOTICE is to be taken of the NOTICE OF PENDING ACTION (CCP SEC. 409) filed with the Orange County Recorder, copy ...included herein by its reference" and related points.
>
> Paragraph VI clearly asserts and proves that...(MYER) "is not a defendant", and could not be, and "that denial of the MOTION TO QUASH the Unlawful Detainer

was in error".

Paragraph VII challenges [Pacific's] position including [Myer's] re-assertions as to the invalidities of services of the Three-Day Notice to Quit and the Summons and COMPLAINT, including:

"B. The 'three-day' notice to quit, its service, its substance, and its Declaration of Service of Notice to Tenant (included in [Pacific's] MEMORANDUM) are conspiratorially fraudulent and deceitful (...) ..." and sub-items asserted no landlord/tenant relationship, lack of cause of action, no precise amount of rent due stated on the complaint, such that:

"10. ...Where an insufficient three-day notice is served, the complaint fails to state a cause of action (Baugh v. Consumers Associates, Ltd. (1966) 241 Cal.App.2d 672, 675; 50 Cal.Rptr. 822). Strict compliance with the statutory provisions relating to the three-day notice to quit is a prerequisite to seeking the summary remedy of unlawful detainer (Baugh v. Consumers Associates, Ltd., supra)."

"E. ...
The phrase [lack of jurisdiction] may mean

> lack of power of a court to act in a particular manner or to give certain kinds of relief. In re Rowe's Estate, 66 Cal.App. 2d 594, 152 P. 2d 765, 770. It may consist in court's total want of power to act at all, or lack of power to act in particular case because conditions essential to exercise of jurisdiction have not been complied with, or may consist of lack of jurisdiction over subject matter or over person." "Black's Law Dictionary, Fifth Edition".

"F. ...In...Unlawful Detainer action, the Plaintiff MUST prove that a landlord/tenant relationship exists (Klein v. Loeffler (1929) 96 Cal.App. 383, 385; 274 P. 373). As stated previously, there is no such relationship, and [Pacific] has failed to prove same. [Pacific] IS SIMPLY ASSUMING ROLES VIA THE THREE-DAY NOTICE TO QUIT and the related paperwork.

X. ...

> A complaint in an unlawful detainer proceeding must plead the fact that a landlord-tenant relationship exists between the parties (Federicksen v. McCosker

(1956) 143 Cal.App.2d
114, 117-118;
299 P. 2d 908)."

4. As per [Myer's] NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION (CCP Sec. 1167.4 (a), 418.10(a)); POINTS AND AUTHORITIES; DECALARATION dated and filed with the Municipal Court on January 24, 1984:

> "COMES NOW THE OWNER...,MYER,... to challenge the JURISDICTION of this Court over the Owner/ Defendant IN PERSONAM and IN REM and to DEMAND respectfully that the Complaint...be quashed, dismissed, abated, overthrown, vacated, annuled and in all other ways made void for LACK OF JURISDICTION. ...MYER also appears for those identified in open court on January 20, 1984, as DOES 1 and 3, since they are members of his household/family.
>
> " POINTS AND AUTHORITIES
>
> I.
>
> INTRODUCTION
>
> "On October 28, 1983,...MYER successfully bid for ["the "subject property""] in accordance with all of the terms and conditions of the NOTICE OF TRUSTEE'S SALE and in accordance with LAW and became the true owner....

"On November 30, 1983,...MYER filed a seven causes of action COMPLAINT...against [Pacific]... (and others) IN THE SUPERIOR COURT...pertinent to his purchase of the subject property... CASE NO. 41-72-38, and also advised of his resident/occupancy of the premises.

"Said COMPLAINT includes as EXHIBITS the NOTICE OF TRUSTEE'S SALE aforementioned....

"On December 9, 1983,...MYER had recorded in the Orange County Recorder's Office, and then filed as part of the aforementioned suit in SUPERIOR COURT, a NOTICE OF PENDING ACTION (CCP Sec. 409), a copy of which...is included...by its reference.

"JUDICIAL NOTICE is to be taken of the JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO [PACIFIC'S] ATTORNEY filed with this Court on December 29, 1983.

"JUDICIAL NOTICE is to be taken of the JUDICIAL NOTICE, etc., filed with this Court on January 13, 1984.

"

II.

IF TITLE IS INEVITABLY IN ISSUE IN AN UNLAWFUL DETAINER ACTION, THE ACTION IS NOT WITHIN THE JURISDICTION OF THE MUNICIPAL COURT

Asuncion v. Superior

Court (1980)
108 Cal.App.3d 141, 146;
166 Cal.Rptr. 306.

"...Asuncion...includes the issue of due process guarantees relative to affirmative defenses "which if proved would maintain ...possession and ownership." Such is the issue in the SUPERIOR COURT suit aforementioned.

"

III.

A MOTION TO QUASH SERVICE OF SUMMONS IS PROPER IN AN UNLAWFUL DETAINER PROCEEDING (CCP Sec. 1177).

"

IV.

ON OR BEFORE THE LAST DAY OF HIS/HER TIME TO PLEAD, OR WITHIN SUCH FURTHER TIME AS THE COURT MAY FOR GOOD CAUSE ALLOW, A DEFENDANT MAY SERVE AND FILE A NOTICE OF MOTION TO QUASH SERVICE OF SUMMONS ON THE GROUND OF LACK OF JURISDICTION OF THE COURT OVER HIM/HER (CCP Sec. 418.10(a)(1)).

"

V.

A "LIS PENDENS" IS FOR THE PURPOSE OF GIVING NOTICE OF THE JURISDICTION OR CONTROL WHICH THE COURT ACQUIRED OVER PROPERTY INVOLVED IN A SUIT PENDING THE CONTINUANCE OF THE ACTION State v. Washington Dredging & Improvement Co.,

86 P.936, 938; 43 Wash 508,
....

" VI.

THE DOCTRINE OF LIS PENDENS HAS LONG BEEN ESTABLISHED AND RECOGNIZED AS THE GENERAL LAW OF THE LAND UPON THE BROAD PUBLIC POLICY OF MAINTAINING THE STATUS QUO OF RIGHTS AND INTERESTS IN PROPERTY INVOLVED IN LITIGATION, NOT ONLY AS BETWEEN THE PARTIES THERETO BUT AS TO THIRD PARTIES HAVING CONFLICTING INTERESTS, UNTIL THE ACTION PENDING HAS BEEN FINALLY ADJUDICATED.

Cook v. Mozer,
140 N.E.590, 592;
108 Ohio St 30.

" DECLARATION

I, JEREMY MYER, Owner of the subject property in this case, Declare that:

1. I am the true owner of the subject property.
2. I was the purchaser...at the foreclosure sale ... in accordance with the terms of the Trustee's Sale and in accordance with THE LAW."

Other declaratory points pertinent to the action.

"[NOTE: Dismissed on Court's own motion two (2) days before the hearing date, even though [Myer's]

MOTION was in response to [Pacific's] new service as described in the records.]

5. As per [Myer's] JUDICIAL NOTICE, NOTICE OF OBJECTIONS, VIOLATIONS OF DUE PROCESS & RIGHTS dated and filed with the Municipal Court on January 27, 1984:

> "...Myer was not heard on his Motion to Quash filed with Court on Jan 24, 1984, to be heard on January 27, 1984, in accordance with CCP after being re-served with Summons & Complaint on evening of 1/19/84 as specified in Notice of Motion. I claim, hereby, violations of due process, violations of rights, abuse of process, and I waive none of my rights, and claim all of them.
> "...MYER objects hereby to these proceedings and that he has not been sufficiently heard in this matter wherein, among other issues, where title is the ultimate issue, the Municipal Court has no jurisdiction; also, there is no landlord/tenant relationship."

6. As per [Myer's] NOTICE OF MOTION AND MOTION TO VACATE JUDGMENT; CCP Sec. 663, 663a; DEMAND FOR FINDINGS OF FACT

AND CONCLUSIONS OF LAW; POINTS AND AUTHORITIES; DECLARATION dated and filed with the Municipal Court on February 10, 1984:

> "...MYER,...DEMAND FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW for all steps in the proceedings of this Court and [Pacific] and [Pacific's] Counsel as relevant to this Unlawful Detainer action from its inception;....
>
> "
>
> DECLARATION
>
> ...
>
> 1. JUDICIAL NOTICE IS TO BE TAKEN OF THE DECLARATIONS dated and filed with the Court on December 29, 1983, and January 24, 1984, and that they are included herein by their reference.
>
> "
>
> MOTION TO VACATE JUDGMENT (CCP Sec. 663, 663a); DEMAND FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW.
>
> COMES NOW...MYER, appearing also for DOES 1 and 3 (since they are members of his household family),...does respectfully demand FINDINGS OF FACT AND CONCLUSIONS OF LAW for all steps in the proceedings...such to be in writing to establish the record.

" MYER does hereby assert and maintain...that an incorrect and erroneous legal basis for the decision, not consistent with and not supported by the facts, has been rendered.

" MYER will also move the Court to enter another and different judgment consistent with BOTH the facts and THE LAW,...."

" POINTS AND AUTHORITIES

I.

INTRODUCTION

Items to be judicially noticed were listed.

"[New] service/re-service was acknowledged in open court on January 20, 1984, by [Pacific's] Attorney...and...was not part of the official Court Record....

"[Myer] (and his family/household for whom he also acted --- see CCP Sec. 371, and CCP Sec. 369 ..."

"[Therefore, there never was any default, as found by the Municipal Court.]"

Other items and challenges again as listed previously.

A FACT WHICH HAS EXISTED CANNOT BE MADE NEVER TO HAVE EXISTED

WHERE A SPECIFIC DUTY IS ASSIGNED BY LAW, AND INDIVIDUAL RIGHTS DEPEND UPON THE PERFORMANCE OF THAT DUTY,...THE INDIVIDUAL WHO CONSIDERS HIMSELF INJURED, HAS A RIGHT TO RESORT TO THE LAWS OF HIS COUNTRY FOR A REMEDY

THE VERY ESSENCE OF CIVIL LIBERTY CERTAINLY CONSISTS IN THE RIGHT OF EVERY INDIVIDUAL TO CLAIM THE PROTECTION OF THE LAWS WHENEVER HE RECEIVES AN INJURY

THE GOVERNMENT OF THE UNITED STATES HAS BEEN EMPHATICALLY TERMED A GOVERNMENT OF LAWS AND NOT OF MEN."

(The above from Marbury v. Madison 5 U.S. 137)

"MOREOVER, THE CONSTITUTION IS AN AGREEMENT OR COMPACT BETWEEN EACH INDIVIDUAL OF THE PEOPLE AND ALL THE REST, AS WELL AS BETWEEN EACH ONE OF THE STATES AND ALL THE OTHERS.
(Cook v. Moffat, 12 L.Ed. 159, 161.)

"WE THE PEOPLE OF THE UNITED STATES...DO ORDAIN AND ESTABLISH THIS CONSTITUTION FOR THE UNITED STATES OF AMERICA. (Preamble) "

" IV

(O)NE WHO SEEKS THE SUMMARY REMEDY OF UNLAWFUL DETAINER ALLOWED BY THE STATUTE MUST BRING HIMSELF CLEARLY WITHIN ITS TERMS
(Horton-Howard v. Payton, (1919) 44 Cal.App. 108,112; 186 P. 167.)

"The failure to properly serve (three-day quit) notice on persons recognized as tenants in possession of the premises requires a judgment in their favor in ...unlawful detainer action (Kwok v. Bergren (1982) 130 Cal.App.3d 596, 600; 181 Cal.Rptr. 795)."

Other citations.

" V

...
No Officer can acquire jurisdiction by deciding that he has it. The officer, whether judicial or ministerial, decides at his peril.
(Middleton v. Low, 30 Cal.596)."

" JUDICIAL NOTICE is to be taken of Title 42 of the UNITED STATES CODE, Sections 1981 through 1986,...(ANNOTATED)."

" VI

JUDICIAL NOTICE is to be taken of the LIS PENDENS doctrine as previously documented by [Myer], as well as his claim to title and that [Pacific's] perfection of title is a fraud (to be adjudicated in other proceedings)."

"[NOTE: Dismissed on Court's own motion on the same day as filed and seven (7) days before noticed hearing date.]"

7. As per [Myer's] EMERGENCY PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW / JUSTICE EX PARTE (CCP Sec. 1085, 1086, 1102, 1103, 1107); MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EMERGENCY PETITION; and EXHIBITS "A" through "M"; dated January 30, 1984, and filed IN THE SUPERIOR COURT ..., on January 31, 1984, CASE 42-14-46:

...MYER noted his ownership claim

purchase, and the prior proceedings in the Municipal Court.

"A Writ of Mandate may issue from any court, except a municipal or justice court, to any inferior tribunal,...or person to compel the performance of an act which the law specifically enjoins as a duty from an office, trust, or station or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled and from which the party is unlawfully precluded. The Writ must be issued in all cases where there is no plain, speedy, and adequate remedy in the ordinary course of the law on the Verified Petition of the party beneficially interested (CCP Sec. 1085, 1086)."

"A Writ of Prohibition...must be issued upon the Verified Petition of the person beneficially interested. The Writ of Prohibition arrests the proceedings of any tribunal,...or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal,...or person (CCP Sec. 1102, 1103).

"The court in which the application is filed, in its discretion and for good cause, may grant the application ex parte, without notice of service of the

application (CCP Sec. 1107).

"...a Writ of Mandate or Prohibition...[should] be issued on the Verified Petition of the party beneficially interested (CCP Sec. 1086, 1103).

"The Unlawful Detainer action and the Default Judgement rendered...by...the...[Municipal Court] when [Myer] set a hearing with NOTICE OF MOTION AND MOTION TO QUASH FOR LACK OF JURISDICTION in response to a new service of SUMMONSES and COMPLAINTS shows that [Myer] needs the lower tribunal to be compelled to QUASH ALL PROCEEDINGS AND REVERSE ITS DEFAULT JUDGEMENT, and that [Myer] has no other plain, speedy, or adequate remedy in the ordinary course of law. [Myer], as the facts show, has a beneficial interest and is entitled to the enjoyment of the right of possession along with his purchase/ownership. Due to the summary nature of the proceedings in the lower tribunal, as well as the procedural and jurisdictional violations, granting of the application EX PARTE is most appropriate. It is most appropriate to totally arrest the actions of the Respondent (and [Pacific]) in this matter. (CCP 1085, 1086, 1102, 1103, 1107.)

"A Writ of Mandate is the appropriate remedy to direct the trial court to apply the proper law (Hurtado v.Superior Court (1974) 11 Cal.3d 574, 579; 114 Cal.Rptr.106; 522 P.2d 666).

Other case citations supra: Asuncion v. Superior Court, Owens v. City of Independence, Middleton v. Low, Manning v. Ketcham, Klein v. Loeffler, Fredericksen v. McCosker, Baugh v. Consumers Associates, Ltd., Kwok v. Bergren, Horton-Howard v. Payton, State v. Washington Dredging & Improvement Co., Cook v. Mozer.

Appropriate CCP Sections addressed: 1177, 1167.3, 1167.4, 418.10(a)(1),

8. As per [Myer's] PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW/JUSTICE (CCP Sec. 1085, 1086, 1102, 1103) dated February 21, 1984, and filed in the Superior Court on February 22, 1984. (See item 7, above.)

9. As per [Myer's] NOTICE OF MOTION FOR ORDER FOR ABATEMENT OF MUNICIPAL COURT PROCEEDINGS OR IN THE ALTERNATIVE

STAY OF MUNICIPAL COURT PROCEEDINGS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF; DECLARATION CCP Secs. 430.10 (a) and (c), 597 dated and filed in the Superior Court on June 1, 1984:

> "...on the grounds that the Respondent Court had no jurisdiction of the subject cause of action and that there is another action pending between...same parties (and others) on the same subject matter (CASE 41-72-38, ..., Superior Court,...)."
>
> ...MYER re-documented his purchase, ownership, and other issues, as aforementioned, including citing the Asuncion case, supra.
>
> "[The] court has no jurisdiction to hear or determine a case where the type of proceeding or the amount in controversy is beyond the jurisdiction defined for that particular court by statute or constitutional provision.
> (Abelleira v. District Court of Appeal (1941)
> 17 Cal.2d 280, 288)"
>
> Again cited Washington Dredging and Cook v. Mozer supra., and attested to the harassment and inappropriateness of the

Unlawful Detainer action, including:

""The controlling rule in this case, however, is that the pendency of another action growing out of the same transaction...is a ground for abatement of the second action but never for abatement of the first." (Citations) "The underlying theory of the plea of another action pending is that the first action will normally be an ample remedy, and the second action... is therefore unnecessary and vexatious. (Our italics.)" (Citations) [Italics replaced with underlines.] (California Union Ins. Co. v. Trinity River Land Co. (1980) 105 Cal.App.3d 104, 108-109; 163 Cal.Rptr. 802)"

""It is well settled in California that the pendency of a prior action based upon the same cause, contested by the same parties and considered in the same jurisdiction, is ground for abatement of the second action." (Hanrahan v. Superior Court (1947) 81 Cal.App.2d 432, 435; 184 P.2d 157)"

"No "...California decision... prohibits a tenant from interposing a defense which...directly relate[s] to the issue of possession and which, if established, would result in the

tenant's retention of the premises."
(Green v. Superior Court (1974) 10 Cal.3d 616, 633; 111 Cal.Rptr. 704; 517 P.2d 1168)"

""Where the rights of the parties to the second action cannot be properly determined until the questions raised in the first action are settled the second action should be stayed."
(Simmons v. Superior Court (1950) 96 Cal.App.2d 119, 130; 214 P.2d 844)

""The rule which forbids a later action in the same state between the same parties involving that same subject matter rests upon principles of wisdom and justice, to prevent vexation, oppression and harassment, to prevent unnecessary litigation, to prevent a multiplicity of suits,---in short, to prevent two actions between the same parties involving the same subject matter from proceeding independently of each other."
(Simmons v. Superior Court," supra., "124-125".

""...while the state does have a significant interest in preserving a speedy repossession remedy, that interest cannot justify the exclusion of matters which are essential to a just resolution of the question of posses-

sion at issue. As the Court of Appeals observed in Abstract Investment Co. v. Hutchinson (1962) 204 Cal.App.2d 242, 249 [22 Cal.Rptr.309]:

> "Certainly the interest in preserving the summary nature of an action cannot out-weigh the interest of doing substantial justice. To hold the preservation of the summary proceeding of paramount importance would be analogous to the 'tail wagging the dog.'""

(Green v. Superior Court (1974) [supra] 10 Cal.3d 616, 636; 111 Cal.Rptr. 704; 517 P.2d 1168.)"

10. As per [Myer's] PURGATORY OATH AND DECLARATION...FOR CLARIFICATION OF RECORD dated June 6, 1984, and "RECEIVED" in the LAW & MOTION DEPARTMENT 23 IN THE SUPERIOR COURT on June 7, 1984.

11. As per all other filings and pleadings of [Myer] in this matter.

Additionally:

> ""Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the... law the end justifies the means ...would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face."
> Olmstead v. United States, 277 U.S. 438, 485 (1928) (dissenting opinion)."
> Dissenting opinion of Mr. Justice Brandeis.
> Miranda v. Arizona, (1966) 384 US 436, 479-480; 86 S.Ct. 1602; 16 L.Ed. 694.

"Special appearance" is recognized in California.
Judson v. Superior Court of Los Angeles County, 129 P.2d 361, 362; 21 Cal.2d 11.

The Municipal Court proceeded without proving jurisdiction once it had been challenged.
Burns v. Municipal Court
195 Cal.App.2d 599.

Agency action must be founded upon the proper substance law and procedural basis --- rather than mere good intention, personal insight, prejudice, or predication.
Duke v. U.S., (1974)
382 F.Supp 362, Affid. in part
539 F.2d 220.

A municipality has no immunity from liability under Sec. 1983 flowing from its constitutional violations and may not assert the good faith of its officers as a defense to such liability.
Owens v. City of Independence
(1980) 100 S.Ct. 1398

"Judge acting in clear absence of jurisdiction was liable."
Maine v. Thiboutot, (1980)
100 S.Ct. 2502.

Evidence Code Sections 450 - 453.

[Myer] herebv respectfully requests that this Court do a De Novo Review since he has not had the benefit of an attorney in preparing these pleadings.

[Myer] also respectfully requests hereby that this Court award him the immediate return of the subject property, costs, appropriate awards for his time, energy, and efforts in partaking of this action, reversal of all decisions of the lower courts, and such other relief as this Court may deem proper.

By reason of the foregoing, [Myer] respectfully requests this Court to grant this Petition for Rehearing or Certification to the Court of Appeal.

Dated: April 14, 1985.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

85-1272

Supreme Court, U.S.
FILED
JAN 28 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

NO. _____

JEREMY MYER,

Petitioner,

v.

PACIFIC FEDERAL SAVINGS
AND LOAN ASSOCIATION,

Respondent.

SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE STATE OF CALIFORNIA SUPREME COURT

Part 4 of 4

JEREMY MYER
16783 Beach Boulevard
Huntington Beach, CA 92647
714/841-8104
Petitioner, In Pro Se

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION III

JEREMY MYER, Petitioner, v. THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, THE SUPERIOR COURT FOR THE COUNTY OF ORANGE, THE SUPERIOR COURT FOR THE COUNTY OF ORANGE, APPELLATE DEPARTMENT, Respondents, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	PETITION FOR WRIT OF REVIEW (CERTIORARI) [CCP Section 1069 Cal Rules of Ct., Rule 56]

The Municipal Court CASE NO. A 73032

The Superior Court CASE NO. 42-14-46

The Appellate Department of the Superior Court CASE NO. AP-4726

TO THE HONORABLE...JUSTICES OF THE COURT OF APPEAL OF THE STATE OF CALIFORNIA:

[Myer] alleges:

....

7. On January 6, 1984,...Municipal Court denied [Myer's] MOTION TO QUASH the Unlawful Detainer action and issued the NOTICE OF ORDER (...and made a part hereof by its reference).

8. ...Municipal Court acted without jurisdiction in rendering said decision and order for the following reasons which are clearly established in and supported by the records of all Respondents:

a. [Myer] lawfully and legally purchased the subject property at the Foreclosure Sale, claims the title with THE RIGHT TO THE POSSESSION and, where title is the ultimate issue,...Municipal Court had no jurisdiction to proceed other than to quash the Summons and

Complaint of PACIFIC.

b. There was no Perfection of Title prior to the Three-Day Notice to Quit, yet such Notice signed by PACIFIC's attorney, an officer of the Court, specifies that "Title has been Duly Perfected". Without prior Perfection of Title, the Three-Day Notice to Quit lacks any sufficiency of jurisdiction and denies any cause of action in the summary proceedings of Unlawful Detainer since such Perfection of Title is a pre-requisite (CCP Sec. 1161a).

c. The Three-Day Notice to Quit was not served properly in accordance with CCP Sec. 1162: it was not served on [Myer], on any tenant or on valid holdover and there was no follow-up mail service prior to the...Municipal Court proceeding.

d. The service of the SUMMONS

AND COMPLAINT was insufficient as to proper personal service and/or follow-up service by mail (CCP Secs. 415.10 and 415.20).

e. Since there was no landlord/tenant relationship, there was no legal or lawful basis upon which the Unlawful Detainer could proceed or remain at bar.

f. Petitioner clearly challenged the jurisdiction of...Municipal Court to proceed on the above and related grounds as specified in the records, but Respondent both assumed jurisdiction and proceeded to find against [Myer] without proving same once jurisdiction had been challenged.

g. Other and related issues as set forth in the records of all Respondents.

9. On January 20, 1984,...Municipal Court denied [Myer's] MOTION TO QUASH the

Unlawful Detainer action as evidenced by a copy of the CIVIL MINUTE SHEET (..., and made a part hereof by its reference).

10. ...Municipal Court again acted without jurisdiction in rendering said decision for the same reasons as are stated in item 8, above, and which are clearly established in and supported by the records of all Respondents.

11. On January 25, 1984,...Municipal Court dismissed [Myer's] MOTION TO QUASH the Unlawful Detainer action on its own motion and without hearing, and issued the NOTICE OF ORDER, including "DEFAULT" (..., and made a part hereof by its reference).

12. ...Municipal Court again acted without jurisdiction in rendering said decision for the same reasons as are stated in item 8, above, and which are clearly established in and supported by

the records of all Respondents. In addition, there was no default either by [Myer] or by any member of his household since [Myer] has THE DUTY and THE RIGHT to act for himself, for his spouse, and for his household (CCP Secs. 371 and 369, and the United States and State Constitutions.)

13. On February 10, 1984,...Municipal Court dismissed [Myer's] MOTION TO VACATE JUDGMENT AND FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW in the Unlawful Detainer action on its own motion and without hearing, and issued the NOTICE OF ORDER (..., and made a part hereof by its reference).

14. ...Municipal Court once again acted without jurisdiction in rendering said decision for the same reasons as are stated in item 8, above, also that there was no default as stated in the above

item 12, and which are clearly established in and supported by the records of all Respondents.

15. On April 2, 1984,... Superior Court (CASE NO. 42-14-46) denied [Myer's] PETITION FOR WRIT OF MANDATE/PROHIBITION for the Unlawful Detainer action, but ordered "a preliminary injunction" with certain conditions (which were fulfilled by [Myer]), and issued the ORDER GRANTING WRIT OF MANDATE/PROHIBITION (..., and made a part hereof by its reference).

16. ...Superior Court acted in excess of its jurisdiction in rendering said decision for the same reasons as are stated in item 8, above, that there was no default as stated in the above item 12, and which are clearly established in and supported by the records of all Respondents.

17. Additionally, a Writ of Mandate

should have issued from the...Superior Court to compel the lower tribunal to perform an act which the law specifically enjoins as a duty resulting from an office, trust, or station, and to arrest the proceedings of the lower tribunal when such proceedings are without or in excess of the jurisdiction of such tribunal, because [Myer], as beneficially interested, had no plain, speedy, or adequate remedy in the ordinary course of the law (CCP Sec 1085, 1086, 1102, 1103).

18. On August 17, 1984,...Superior Court (CASE NO. 42-14-46) denied [Myer's] MOTION FOR ORDER FOR ABATEMENT OF MUNICIPAL COURT PROCEEDINGS OR IN THE ALTERNATIVE STAY OF MUNICIPAL COURT PROCEEDINGS of the Unlawful Detainer action (...and made a part hereof by its reference)..., and the dissolution of the "preliminary injunction".

19. ...Superior Court acted in excess of its jurisdiction in rendering said decision for the same reasons as are stated in item 8, above, that there was no default as stated in the above item 12, and which are clearly established in and supported by the records of all Respondents.

20. Additionally, an Order for Abatement or, In the Alternative, Stay of the...Municipal Court Proceedings should have issued from the...Superior Court since the lower tribunal had no jurisdiction of the subject of the cause of action alleged, that there was another action pending between the parties on the same cause of action and, therefore, the lower tribunal had no grounds to proceed initially (CCP Secs. 430.10 (a), (c), 597).

21. ...Superior Court...[decision] ...not relevant to the jurisdictional issues which [Myer] had raised pertinent to the summary proceedings of the Unlawful Detainer action in the...Municipal Court, and that there was still the need for an affirmative ruling in the matter at bar before it: said...Municipal Court had no basis on which to proceed from the inception of the case.

22. ....

23. On August 22, 1984, the NOTICE OF DEFAULT ENTRY (...and made a part hereof by its reference) was issued "under the penalty of perjury" by the Clerk/deputy clerk of the...Municipal Court in CASE NO. A 73032, and the ORDER FOR WRIT OF POSSESSION BY CLERK - UNLAWFUL DETAINER (...and made a part hereof by its reference) was issued and filed on August 24, 1984.

24. The records clearly show that [Myer], nor anyone in his household, was in default at any time and, therefore, the issuances of the...[item 23, above, items]...are further proof of the lack and want of jurisdiction of the proceedings, as well as the necessity and requirement for a complete review of these matters.

25. On April 1, 1985,...Appellate Department (CASE NO. AP-4726) entered its JUDGMENT and decisions denying [Myer's] MOTION TO HAVE HIS PROPOSED SETTLED STATEMENT AS FILED IN THE MUNICIPAL COURT FORMERLY ACCEPTED BY THE COURT AS IF CERTIFIED OR, IN THE ALTERNATIVE, TO ORDER THE JUDGE OF THE MUNICIPAL COURT TO CERTIFY IT, OR, IN THE SECOND ALTERNATIVE, TO ORDER THAT A STIPULATED RECORD BE PROVIDED. ([Myer] had sought this because the..., Judge of the...Municipal

Court had REFUSED to settle the statement.) (Said April 1, 1985, JUDGMENT and decisions were rendered in the JUDGMENT & ORDER and MINUTE ORDER,...and made a part hereof by their reference.)

26. Also, as part of its April 1, 1985, JUDGMENT and decisions, the... Appellate Department denied [Myer's] MOTION TO HAVE THE SUBJECT PROPERTY IMMEDIATELY RETURNED TO HIM AND HIS FAMILY FOR THEIR QUIET AND PEACEFUL ENJOYMENT.

27. Furthermore, as part of said April 1, 1985, JUDGMENT and decisions,... Appellate Department affirmed "the order awarding [Pacific] restitution of the premises made and entered in the...Municipal Court...."

28. ...Appellate Department clearly erred in its JUDGMENT and decisions for 11 of the aforementioned reasons pertain-

ing to jurisdiction and default.

29. On April 29, 1985,... Appellate Department summarily denied [Myer's] PETITION FOR REHEARING OR CERTIFICATION TO THE COURT OF APPEAL as per its MINUTE ORDER (...and made a part hereof by its reference).

30. Clearly, among the other issues, said denials were want of jurisdiction since there was no prior Perfection of Title to support the Unlawful Detainer proceedings, as well as a multitude of other insufficiencies and improprieties, some of which are noted hereinabove, but all of which are clearly included in all of the court records and files of which judicial notice is to be taken in each of the above noted/related cases.

31. In support of this Petition for Rehearing (Certiorari) are all of the court records and files, including

[Myer's] REPLY BRIEF dated February 16, 1985, and [Myer's] PETITION FOR REHEARING OR CERTIFICATION TO THE COURT OF APPEAL dated April 15, 1985 (..., and are made a part hereof by their reference).

32. [Myer] has no right of appeal from said orders, decisions, judgments, and writ rendered by Respondents in that: "An appeal may be taken from a superior court in the following cases: (a) From a judgment, except...(3) a judgment on appeal from a municipal court...or (4) a judgment granting or denying a petition for a writ of mandamus or prohibition directed to a municipal court...or the judge or judges thereof which relates to a matter pending in the municipal court ...." (CCP Sec. 904.1 (a) (3) and (4)).

33. [Myer] has no plain, speedy, and adequate remedy other than this proceeding by Writ of Certiorari by reason of

the foregoing, particularly items 13 and 14 relating to [Myer's] MOTION TO VACATE JUDGMENT in, and the dismissal of same by, the...Municipal Court, and in that the judgment of the...Appellate Department becomes final "...upon the expiration of 30 days after the judgment is pronounced or upon the denial of all such petitions [for re-hearing], whichever is earlier" (Cal Rules of Ct, Rule 107 (b)(2)),...).

34. Enforcement of decisions and judgments are causing [Myer] to suffer continual injury and harm in being denied quiet title and possession of the property he lawfully purchased at public auction.

35. This application is made to this Court in the first instance due to the reasons as stated in the above items 32 and 33.

WHEREFORE, Petitioner prays:

1. That a Writ of Review (Certiorari) issue out of this Court to the... Municipal Court,...Superior Court, and... Appellate Department, commanding them to certify fully to this Court at a specified time and place all of the records and proceedings in the above-mentioned cause so that the same may be inquired into and determined by this Court, and that [Myer] receive notification when such complete records have been received by this Court for review;

2. That the aforementioned cause be fully heard and considered by this Court and that the decisions, orders, and judgments made by...Municipal Court,...Superior Court, and...Appellate Department, as documented hereinabove and as appropriately EXHIBITed, be annulled and set aside, and that [Myer] be granted full

and complete relief from same;

3. That [Myer] be granted immediate restitution of the premises;

4. That an order issue from this Court requiring...Municipal Court, and the other Respondents, as may be appropriate, during the pendency of this proceeding to desist from further proceedings in the above-mentioned cause;

....

7. That Petitioner be granted such other and further relief as the Court deems proper.

Dated: May 12, 1985.

Respectfully submitted,

Jeremy Myer
Petitioner, In Pro Per

VERIFICATION

I, JEREMY MYER, declare that I am the Petitioner....
Executed on May 12, 1985,....
I affirm that the foregoing is true and correct.

Jeremy Myer

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION III

JEREMY MYER, Petitioner, v. THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, THE SUPERIOR COURT FOR THE COUNTY OF ORANGE, THE SUPERIOR COURT FOR THE COUNTY OF ORANGE, APPELLATE DEPARTMENT, Respondents, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF REVIEW (CERTIORARI) [CCP Section 1068 et seq. Cal Rules of Ct, Rule 56]

....

I

A WRIT OF REVIEW (CERTIORARI) MAY ISSUE

> "A writ of review maay be granted by any court, except a municipal or a justice court, when an inferior tribunal,...exercising judicial functions, has exceeded

> the jurisdiction of such tribunal,..., and there is no appeal, nor, in the judgment of the court, any plain speedy, and adequate remedy." (CCP § 1068)
>
> "The application must be made on the verified petition of the party beneficially interested, ..." (CCP § 1069)

II

THE JUDGMENT OF A SUPERIOR COURT RENDERED ON APPEAL TO IT FROM A LOWER COURT IS NONAPPEALABLE.

Although holding that the Superior Court did not exceed its jurisdiction in affirming a judgment of conviction rendered by the Justice's Court, the Supreme Court said that:

> "Since no further appeal lies from the judgment of the superior court, however, the writ of certiorari is available as a means of challenging the jurisdiction of that court."
> Portnoy v. Superior Court
> (1942)
> 20 Cal.2d 375, 377; 125 P.2d 487

As shown by the Petition submitted herewith, [Myer] has sought appropriate

reviews in the...Municipal Court (CASE NO. A 73032), in the...Superior Court (CASE NO. 42-14-46), and in the...Appellate Department (CASE NO. AP-4726), including PETITION FOR REHEARING OR CERTIFICATION TO THE COURT OF APPEAL as part of said CASE NO. AP-4726 in the...Appellate Department (...made a part of said Petition by its reference.)

III

A COURT IS ACTING IN EXCESS OF ITS JURISDICTION WHERE IT ACTS IN EXCESS OF ITS POWER AS DEFINED BY CONSTITUTIONAL PROVISIONS, STATUTES, AND RULES DEVELOPED BY THE COURTS, AND FOLLOWED UNDER THE DOCTRINE OF STARE DECISIS.

Although involving the Writ of Prohibition, it was well stated that:

> "Speaking generally, any acts which exceed the defined power of a court in any instance, whether that power be defined by constitutional provision, express statutory declaration, or rules developed by the courts and followed under the doctrine of stare decisis, are in excess of jurisdiction, in so far

> as that term is used to indicate that those acts may be restrained by prohibition or anulled on certiorari." [Underlines substituted for itallics.] Abelleira v. District Court of Appeal (1941) 17 Cal.2d 280,291; 109 P.2d 942; 132 A.L.R. 715.

And Abelleira was reinforced in Auto Equity Sales, v. Superior Court (1962), 57 Cal.2d 450, 455; 20 Cal.Rptr. 321; 369 P.2d 937. Furthermore, Abelleira was quoted in Brady v. Superior Court (1962) 200 Cal.App.2d 69, 74; 19 Cal.Rptr. 242, in annulling a judgment of contempt.

As shown by the Petition submitted herewith,...Municipal Court had no jurisdiction to proceed other than to quash the Summonses and Complaints of [Pacific] since there was no pre-requisite Perfection of Title (CCP Sec. 1161a), all services were invalid and insufficient (CCP

Secs. 415.10, 415.20, and 1162), there was no default by [Myer] or any member of his household (CCP Secs. 369 and 371), there was no landlord/tenant relationship (or any such presumed relationship), and so forth, and [Myer] substantiated his position with well-supporting case citations.

Furthermore, all of [Myer's] appeal and review steps were well-supported with appropriate case citations including [Myer's] Petition to the...Superior Court for a WRIT OF MANDATE PROHIBITION using other appropriate portions of the above-cited Abelleira case, yet Respondents have continually and summarily found against him.

Among other matters, this puts into serious question the meaning of 'summary

proceeding' as it relates to Unlawful Detainer, as well as the 'Unlawful Detainer' itself, and other matters of THE LAW as they relate to this matter and as clearly set forth and established in all of the files and records of the Respondents:

> "Words and phrases are construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, or are defined in the succeeding section, are to be construed according to such peculiar and appropriate meaning or definition." (CC Sec. 13. Also see CCP Sec. 16.)

Thus, in granting a Writ of Habeas Corpus to secure the release of a prisoner from custody when the information contained the wrong charge, it was stated that:

> "'...For the purposes of this writ as well as prohibition or

certiorari, the term "jurisdiction" is not limited to its fundamental meaning, and in such proceedings judicial acts may be restrained or annulled if determined to be in excess of the court's powers as defined by the constitutional provision, statute, or rules developed by courts ....'"
In re Perez (1966)
239 Cal.App.2d 466, 469;
48 Cal.Rptr 809.

IV

THE REFUSAL OF A COURT TO FOLLOW A RULE ESTABLISHED BY A COURT OF SUPERIOR JURISDICTION CONSTITUTES AN EXCESS OF JURISDICTION AS THAT TERM IS USED IN CONNECTION WITH THE WRIT OF REVIEW (CERTIORARI)

[Myer] clearly established his position via substantive U.S. Supreme Court case citations, substantive State of California Supreme Court case citations, etc., as well as appropriate statutes and rules, that...Municipal Court was totally without jurisdiction to proceed and, therefore, that...Superior Court and Appellate Department rendered

decisions which were also in excess of jurisdiction.

In annulling a judgment of the Appellate Department of the Superior Court, the California Supreme Court said that:

> "[W]hether or not the Kroiss case was decided correctly, the appellate department of the superior court exceeded its 'jurisdiction,' as that term is used in connection with the writ of certiorari, in refusing to follow a rule established by a court of superior jurisdiction." [Underline substituted for italics.] Also see Auto Equity, supra.
> Auto Equity Sales, Inc. v. Superior Court (1962) 57 Cal.2d 450, 454; 20 Cal.Rptr.321; 369 P.2d 937.

Also: "Under the doctrine of stare decisis, all tribunals exercising inferior jurisdiction are required to follow decisions of courts exercising superior jurisdiction. Otherwise, the doctrine of stare decisis makes no sense. The decisions of this court are binding upon and must be followed by all the

> state courts of California. Decisions of every division of the District Court of Appeal are binding upon all the justice and municipal courts and upon all the superior courts of this state, and this is so whether or not the superior court is acting as a trial or appellate court. Courts exercising inferior jurisdiction must accept the law declared by courts of superior jurisdiction. It is not their function to attempt to overrule decisions of a higher court." [Underlines substituted for itallics.]
> Auto Equity, supra, at page 455.

And in Diamond v. Bland (1973) 33 Cal.App.3d 385, 388-389; 109 Cal.Rptr. 248, it was confirmed that the U. S. Supreme Court held superior jurisdiction to the State Supreme Court (where conflicting decisions had been concluded).

As alleged in the Petition submitted herewith, [Myer] is the...Appellant in that action entitled PACIFIC...v. WOELKE,

et al., CASE NO. A 73032, commenced in the...Municipal Court,...which case has been decided against him four (4) times by the...Municipal Court. [Myer] sought appropriate relief and reversals in the ...Superior Court (CASE NO. 42-14-46) and appealed to the...Appellate Department (CASE NO. AP-4726), all to no avail. Yet [Myer] clearly cited support for his position such as:

> "It is elementary that public officers must obey the law."
> Wirin v. Parker
> 48 Cal.2d 890; 313 P.2d 844,

and:

> "The United States Supreme Court has repeatedly asserted that all officers of the government from the highest to the lowest are creatures of the law and bound to obey it."
> 63 Am.Jur.2d, Sec. 277,

both as cited in 52 Cal.Jur.3d, Sec. 173.

And that where an insufficient Three-Day Notice is served, the Complaint fails to state a cause of action since

strict compliance with the statutory provisions relating to the Three-Day Notice to Quit is pre-requisite to seeking the summary remedy of Unlawful Detainer (Baugh v. Consumers Associates, Ltd. (1966) 241 Cal.App.672, 675; 50 Cal.Rptr. 822).

Further, PACIFIC never proved that a landlord/tenant relationship existed between the parties even though in an Unlawful Detainer action, the Plaintiff must prove that a landlord/tenant relationship exists between the parties (Klein v. Loeffler (1929) 96 Cal.App. 383, 385; 274 P.373; and Fredericksen v McCosker (1956) 143 Cal.App.2d 114, 117 -118; 299 P.2d 908).

Additionally, Asuncion v. Superior Court (1980) 108 Cal.App.3d 141, 146;

166 Cal.Rptr.306, makes it truly plain and clear: that is, if TITLE is inevitably in issue in an Unlawful Detainer action, the action is not within the jurisdiction of the...Municipal Court, and said Court, as well as the other Respondents, were made well aware of this and [Myer's] title (and other) action in the related CASE NO. 41-72-38 in the... Superior Court, now on appeal to this Court, CA NO. G-002275.

[Myer] supported his position with many, many case citations from superior jurisdictions to those of Respondents, not only for the Unlawful Detainer aspects of this matter, but for the doctrine of Lis Pendens, Petition for Writ of Mandate/Prohibition, Motion for Abatement/Stay of the...Municipal Court's proceedings, RIGHTS, and so forth; some

of which can be seen additionally in EXHIBITS "L" and "M" attached to the Petition of which these Points and Authorities are in support; the rest to be reviewed in the records and files of Respondents.

V

REVIEW (CERTIORARI) IS THE APPROPRIATE REMEDY TO REVIEW AN ACT IN EXCESS OF THE JURISDICTION OF A LOWER TRIBUNAL

Auto Equity Sales, Inc. v. Superior Court (1962) supra, 57 Cal.2d 450, 454; 20 Cal.Rptr. 321; 369 P.2d 937, asserts:

> "Certiorari, like prohibition, is, of course, a 'jurisdictional' writ. While it cannot be used to attack an error of a lower tribunal committed in the exercise of its jurisdiction, it is available when that tribunal has acted in excess of its 'jurisdiction.'"

The Estate of Bodger (1954) 128 Cal. App. 2d 710, 714; 276 P. 2d 83,

affirmed that:

> "Any act of a court which adversely affects the rights of a litigant and which exceeds the power of the court, as defined by the Constitution and the law of the state, is in excess of its jurisdiction and such act may be restrained or annulled on certiorari."

Since the Respondent Courts below have acted in excess of their jurisdictions in the original decisions and judgments, and in all decisions and judgments, since the clear statutes and the superior jurisdictions were not followed in reaching their decisions and judgments (and were, in fact abrogated by Respondents), it is submitted that the Petition for Review (Certiorari) should be granted.

Dated: May 12, 1985.

Respectfully submitted,

Jeremy Myer
Petitioner, In Pro Per

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION III

JEREMY MYER, Petitioner, v. THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, THE SUPERIOR COURT FOR THE COUNTY OF ORANGE, APPELLATE DEPARTMENT, THE SUPERIOR COURT FOR THE COUNTY OF ORANGE, Respondents, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	CA. NO. G-002742

PETITIONER'S NOTICE OF OBJECTIONS
TO COURT'S DENIAL OF PETITONER'S
PETITION FOR WRIT OF REVIEW
FILED ON MAY 13, 1985
DENIED ON MAY 16, 1985

The Municipal Court CASE NO. A 73032

The Superior Court CASE NO. 42-14-46

The Appellate Department
of the Superior Court CASE NO. AP-4726

TO THE HONORABLE...JUSTICES OF THE COURT OF APPEAL OF THE STATE OF CALIFORNIA:

[Myer] hereby states his OBJECTIONS to the Court's denial of his PETITION FOR WRIT OF REVIEW filed on May 13, 1985, and denied on May 16, 1985, as follows:

1. [Myer] believes that said denial was in violation of the intent of the law under which he petitioned for review.

2. [Myer] believes that there was no right or reason to arbitrarily and summarily deny his PETITION FOR WRIT OF REVIEW.

3. [Myer's] beliefs as stated in 1 and 2 above are based upon the contents of said PETITION, the contents of the files and records in the subject cases, and that the facts clearly show that he and his family were the subject of abuses of an unlawful detainer action in which:

a. There was no lawful or legal 'perfection of title' by [Pacific]/ Attorney.

b. There was no lawful or legal Three-Day Notice to Quit, and no such document was served properly by [Pacific]/Attorney.

c. There were no Summonses and Complaints which were served properly by [Pacific]/Attorney.

d. [Myer] claims the subject property by RIGHT and by PURCHASE.

e. There never was any valid lawful or legal jurisdiction for said summary action of the Unlawful Detainer to proceed against him and his family for these reasons and, therefore, for any Court decisions rendered against them.

f. He and/or his family were not in default at any time even though Court decisions were rendered against

them accordingly and not reversed on reviews/appeals.

g. Other and related reasons as are part of the records and files in these matters.

4. The Court, Respondents, and [Pacific]/Attorney have usurped and abrogated:

a. The unalienable RIGHTS of [Myer] and his family.

b. The RIGHTS of [Myer] and his family to look to the Courts in the State of California of the United States of America for redress of grievances and application of the laws, not sweeping them aside.

c. Proper judicial review based upon sufficiencies of the laws and the facts.

d. Their own oaths to support and defend the Constitution of the United

States and the Constitution of the State of California.

e. The RIGHTS of [Myer] and his family "to be secure in their persons, houses, papers, and effects, against unreasonable...seizures".

f. The RIGHTS of [Myer] and his family [not] "to be deprived of...property, without due process of law; ...".

g. The RIGHTS as retained by and reserved to [Myer] and his family (the People).

h. The (U. S. Constitution) Fourteenth Amendment RIGHTS of [Myer] and his family, including equal protection of the laws.

i. The RIGHTS of [Myer] and his family of "...acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy."

j. All other RIGHTS and PRIVILEGES as guaranteed and granted by the United States and California Constitutions.

k. All other RIGHTS as jurisdictional and foundational to the United States of America and the State of California.

5. The above sub-items of the above items 3 and 4 were substantively and explicitly pleaded by [Myer] throughout the proceedings, including appropriate citations in support thereof:

> 'WE ARE A NATION OF LAWS, AND NOT OF MEN.'
>
> 'Where RIGHTS are concerned, there can be no rule-making or legislation which abrogate them'.

Dated: Father's Day June 16, 1985.

JEREMY MYER
Petitioner In Pro Per

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

JEREMY MYER, Petitioner, v. THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, THE SUPERIOR COURT FOR THE COUNTY OF ORANGE, APPELLATE DEPARTMENT, THE SUPERIOR COURT FOR THE COUNTY OF ORANGE, THE COURT OF APPEAL, FOURTH APPELLATE DISTRICT, DIVISION III, Respondents, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	Civil Action LA 32084 PETITION FOR REVIEW AND BRIEF IN SUPPORT THEREOF [On Court's Own Motion or in the Alternative, by Petition herewith] [Cal Rules of Ct, Rules 28, 29] [The Law and Justice]

The Municipal Court	CASE NO. A 73032
The Superior Court	CASE NO. 42-14-46
The Appellate Department of the Superior Court	CASE NO. AP-4726
The Court of Appeal, 4th App. Dist., Div. III	CA-G002742

TOPICAL INDEX OF CONTENTS

Section	Title
	TABLE OF AUTHORITIES
	PETITION FOR REVIEW
	BRIEF IN SUPPORT OF PETITION FOR REVIEW
I.	GROUNDS FOR PETITION AND FOR REVIEW
II.	SUMMARY STATEMENT OF PROCEEDINGS AND DECISIONS AND JUDGMENTS
III.	RESPONDENTS WERE WITHOUT AND/OR WERE IN EXCESS OF JURISDICTION
IV.	TITLE IS IN ISSUE AND TO BE FULLY ADJUDICATED: JURISDICTION WAS NOT IN THE RESPONDENT MUNICIPAL COURT
V.	DOCTRINE OF LIS PENDENS APPLIED BUT WAS IGNORED
VI.	OWNERSHIP ISSUES INVOLVE ASSERTIONS OF FRAUD
VII.	PETITIONER APPEARED SPECIALLY IN MUNICIPAL COURT
VIII.	THERE WAS NO PRE-REQUISITE PERFECTION OF TITLE

IX. THERE WAS NO VALID THREE-DAY NOTICE TO QUIT AND THERE WAS NO VALID SERVICE OF SAME

X. THERE WERE NO VALID SUMMONSES AND COMPLAINTS AND INVALID SERVICES OF SAME

XI. THERE WAS NO REQUIRED LANDLORD/TENANT RELATIONSHIP

XII. NEITHER PETITIONER, NOR ANY MEMBERS OF HIS FAMILY, WERE IN DEFAULT AT ANY TIME

XIII. PETITIONER AND HIS FAMILY WERE VEXATIOUSLY HARASSED BY PACIFIC WITH MULTIPLICITY OF SUIT

XIV. A WRIT OF MANDATE/PROHIBITION WAS IN ORDER AS A MATTER OF RIGHT AND OF LAW

XV. AN ORDER FOR ABATEMENT/STAY OF PROCEEDINGS WAS IN ORDER AS A MATTER OF RIGHT AND OF LAW

XVI. A SETTLED STATEMENT WAS IN ORDER AS A MATTER OF RIGHT AND OF LAW

XVII. THE DOCTRINE OF 'STARE DECISIS' WAS IGNORED

XVIII. A WRIT OF REVIEW (CERTIORARI) WAS IN ORDER FOR PROPER SUBSTANCE LAW AND PROCEDURAL BASIS

XIX. CONCLUSION AND PETITIONER'S PRAYER

TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

[Myer] petitions this Court for a full and complete review of the proceedings, decisions, orders, and judgments of the Respondents, including their respective files and records, in accordance with this PETITION FOR REVIEW AND BRIEF IN SUPPORT on the Court's own motion or, in the alternative, for the reasons and purposes as stated in the following BRIEF. All matters pleaded in the BRIEF have been pleaded in the Respondent Courts.

....

Petitioner, in Propria Persona and not an attorney, has only now been able to complete this PETITION AND BRIEF after doing his best to review, read, and

understand the Rules of Court, including the new Rules effective May 6, 1985, to comply therewith to the best of his ability, to fulfill his personal obligations, and to prepare this BRIEF based upon the substantive items of law and fact which appear in the files and records in this matter.

BRIEF IN SUPPORT OF PETITION FOR REVIEW

I. GROUNDS FOR PETITION AND FOR REVIEW

1. Judicial Notice is to be taken of the fact that on February 24, 1985, [Myer] mailed to the Court seven (7) copies of his APPELLANT'S REPLY BRIEF in CASE NO. AP-4726 which had been filed in ...Appellate Department on February 19, 1985:

a. Said REPLY BRIEF includes some of the Constitutional and statutory

violations of...Municipal Court and [Pacific] with substantive case and other citations supportive of [Myer's] position.

b. Said REPLY BRIEF was and is a constructive Petition for Review by virtue of its submission...:

....

c. [Myer] thus constructively Petitioned the Court for Review such that:

> "A petition for review submitted for filing prior to the finality of the Court of Appeal decision as to that court shall be received by the clerk and shall be deemed filed on the day after the decision becomes final as to the Court of Appeal."
> Cal Rules of Ct,
> [new] Rule 28(b).

2. Judicial Notice is to be taken of the fact that [MYER'S] NOTICE OF OBJECTIONS TO [...Appeal] COURT'S DENIAL OF [MYER'S] PETITION FOR WRIT OF REVIEW

FILED ON MAY 13, 1985, DENIED ON MAY 16, 1985, and dated [Sunday] Father's Day June 16, 1985, was mailed to this Court on June 17, 1985:

a. ....

b. Said NOTICE OF OBJECTIONS includes substantive rights, due process, jurisdictional, statutory, and Constitutional violations of all of the Respondent Courts and [Pacific/Attorney.

c. Said NOTICE OF OBJECTIONS was and is an addition to the constructive Petition for Review by virtue of its submission and its content.

3. ....

4. A review is necessary to secure uniformity of decision in that the proceedings, decisions, and judgments of the Respondent Courts supercede and overturn the United States Constitution, the California Constitution, the Business and

Professions Code, American and California Jurisprudence, and substantive case law (as a minimum, all of which [Myer] has pleaded and supported with appropriate citations) as they relate to [Myer's] and his family's rights, jurisdiction, due process, and so forth, in the summary proceedings of this Unlawful Detainer action and its related appeals and proceedings (including: PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW/JUSTICE; MOTION FOR ORDER FOR ABATEMENT OF ...MUNICIPAL COURT PROCEEDINGS OR IN THE ALTERNATIVE STAY OF...MUNICIPAL COURT PROCEEDINGS; and PURGATORY OATH AND DECLARATION OF...MYER FOR CLARIFICATION OF RECORD all in...Superior Court CASE NO. 42-14-46) --- (Cal Rules of Ct, Rule 29(a)(1)).

5. A review is necessary to settle important questions of law in that the

proceedings, decisions, and judgments of the Respondent Courts supercede and overturn the statutory requirements and provisions of the summary proceedings of Unlawful Detainer and its related appeals and proceedings including, but not limited to, the above items and the items as noted infra (Cal Rules of Ct, Rule 29(a)(1)).

6. A review is necessary to re-establish the doctrine of 'stare decisis' which the proceedings, decisions, and judgments of the Respondent Courts supercede and overturn and, then, such proceedings, decisions, and judgments (and the respective Respondents) were without and/or were in excess of jurisdiction. (Cal Rules of Ct, Rule 29(a)(2).

7. A review is necessary to uphold the law and to support the necessity for 'stare decisis' by notifying the Respond-

ent Courts that the violation of [Myer's] /family's RIGHTS were without and/or were in excess of jurisdiction. (Cal Rules of Ct, Rule 29(a)(1) and (2), and:

> "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."
> Miranda v. Arizona (1966) 384 U.S. 436, 491; 86 S.Ct. 1602; 16 L.Ed. 694.

II. SUMMARY STATEMENT OF PROCEEDINGS AND DECISIONS AND JUDGMENTS

....

23. On November 29, 1984, at the hearing on SETTLED STATEMENT,...Municipal Court refused to settle [Myer's] Proposed Settled Statement and refused to note [Myer's] objections for the record.

24. On April 1, 1985,... Appellate Department (CASE NO. AP-4726) denied [Myer's] APPEAL and entered its JUDGMENT and ORDER OF SUPERIOR COURT denying

[Myer's] MOTION TO HAVE HIS PROPOSED SETTLED STATEMENT AS FILED IN THE MUNICIPAL COURT FORMERLY ACCEPTED BY THE COURT AS IF CERTIFIED OR, IN THE ALTERNATIVE, TO ORDER THE JUDGE OF THE MUNICIPAL COURT TO CERTIFY IT, OR, IN THE SECOND ALTERNATIVE, TO ORDER THAT A STIPULATED RECORD BE PROVIDED, and denying [Myer's] MOTION TO HAVE THE SUBJECT PROPERTY IMMEDIATELY RETURNED TO HIM AND HIS FAMILY FOR THEIR QUIET AND PEACEFUL ENJOYMENT,....

25. On April 29, 1985,...Appellate Department (CASE NO. AP-4726) summarily denied [Myer's] PETITION FOR REHEARING OR CERTIFICATION TO THE COURT OF APPEAL....

26. On May 16, 1985, the ORDER of... Court of Appeal (CASE NO. G002742) was filed which summarily denied [Myer's] PETITION FOR WRIT OF REVIEW (CERTIORARI) which had been filed three (3) days earlier on May 13, 1985....

III. RESPONDENTS WERE WITHOUT AND/OR WERE IN EXCESS OF JURISDICTION

27. Respondents acted without and/or in excess of jurisdiction in rendering their decisions, orders, and judgments for the reasons which are clearly established in and supported by the records and files in this matter, some of which reasons appear in the following items.

IV. TITLE IS IN ISSUE AND TO BE FULLY ADJUDICATED: JURISDICTION WAS NOT IN THE ...MUNICIPAL COURT

28. [Myer] lawfully and legally purchased the subject property at the Trustee's Sale, claims the property and title in accordance with his wishes, with THE RIGHT TO THE POSSESSION:

> "Accordingly, title to the property is inevitably in issue in this unlawful detainer action, and the action is not within the jurisdiction of the municipal court."

Asuncion v. Superior Court
(1980) 108 Cal.App.3d 141 146;
166 Cal.Rptr. 306.

"[The] court has no jurisdiction to hear or determine a case where the type of proceeding or the amount in controversy is beyond the jurisdiction defined for that particular court by statute or constitutional provision. (See Cambra v. Justice's Court, 4 Cal. (2d) 445 [49 Pac. (2d) 1121].)"
[Underlines substituted for italics.]
Abelleira v. District Court of Appeal (1941)
17 Cal.2d 280, 288;
109 P.2d 942; 132 A.L.R. 715.

V. DOCTRINE OF LIS PENDENS APPLIED BUT WAS IGNORED

29. [Myer] had previously filed his action and a related Lis Pendens in... Superior Court (related CASE NO. 41-72-38) to press his claims:

"A lis pendens is for the purpose of giving notice of the jurisdiction or control which the court acquires over property involved in a suit pending the continuance of the action."
State v. Washington Dredging

& Improvement Co. (1906)
86 P. 936, 938; 43 Wash. 508;
adopting definition in
Washington Dredging & Improve-
ment Co. v. Kinnear et al.,
(1901) 64 P. 522, 522;
24 Wash. 405.

30. Further, the doctrine of L
Pendens has long been established a
recognized as the general law of the la
upon the broad public policy of maintai
ing the status quo of rights and inte
ests in property involved in litigatio
not only as between the parties there
but as to third parties having conflic
ing interests, until the action pendi
has been finally adjudicated:

> "It has been said that it is essential to the existence of valid and effective lis pender that three elements be present (1) The property must be of a character to be subject to the rule; (2) the court must have jurisdiction both of the perso and the res; and (3) the property or res involved must be sufficiently described in the pleadings."

Cook v. Mozer (1923)
140 N.E. 590, 592;
108 Ohio St 30.

[Myer's] prior and related action (CASE NO. 41-72-38) fulfilled the above-cited three (3) items. Also:

> "This doctrine [of Lis Pendens] is sound and wholesome in that it preserves the status quo of all conflicting rights and interests in the property in question, until there is a final adjudication of the issues raised in the pending suit." Cook v. Mozer, supra, ibid.

[Myer's] related suit is on appeal --- the issues have not been 'finally adjudicated'.

VI. OWNERSHIP ISSUES INVOLVE ASSERTIONS OF FRAUD

31. In his related and prior suit, Respondents and PACIFIC/Attorney having had appropriate real and constructive notice (and, in fact, PACIFIC's Attorney

used a copy of [Myer's] origin COMPLAINT from said suit as an EXHIBIT one of her filings in this Unlawf Detainer matter), [Myer] asserted fra on the part of PACIFIC (and others) preventing [Myer] from obtaining cle title in accordance with his purchase the Trustee's sale, and other matte related to the ownership issue:

> "It is generally recognized the summary unlawful detainer acti is not a suitable vehicle to t complicated ownership issues i volving assertions of fraud ar deceptive practices."
> Asuncion v. Superior Court (1980) (supra) 108 Cal.App.3d 141, 144; 166 Cal.Rptr. 306.

VII. PETITIONER APPEARED SPECIALLY IN MUNICIPAL COURT

32. [Myer] appeared "specially" ...Municipal Court and he continual challenged its jurisdiction, the 'perfe tion of title', the validity of

Three-Day Notice and the Summonses and Complaints; he never waived defects of service, nor submitted unqualifiedly or unrestrictedly to the jurisdiction of said Court, nor did he waive due process guarantees and/or any of his or his family's rights knowingly:

> "A special appearance is for the purpose of testing the sufficiency of service or the jurisdiction of the court; a general appearance is made where the defendant waives defects of service and submits to the jurisdiction. Insurance Co. of North America v. Kunin, 175 Neb. 260, 121 N.W.2d 372, 375, 376." BLACK'S LAW DICTIONARY (1979) Fifth Edition, 89.

> "It is not general appearance where the question of jurisdiction of the person is raised by motion to quash for want of jurisdiction; McGillin v. Claflin, 52 Fed. 657;...
> "A special appearance to raise the question of judicial action does not amount to a general appearance; Commercial Mut. Accident Co. v. Davis, 213 U. S. 245, 29 Sup. Ct. 445, 53 L. Ed. 782. A special appearance entered to contest the jurisdic-

tion will not operate to waive objection to illegal or insufficient service; Lathrop-Shea & Henwood Co. v. Const. Co., 150 Fed. 666 (citing many Supreme Court cases where such appearance is recognized); Remington v. Ry. Co., 198 U. S. 95, 25 Sup. Ct. 577, 49 L. Ed. 959; Powers v. Ry. Co., 169 U. S. 92, 18 Sup. Ct. 264, 42 L. Ed. 673; Courtney v. Pradt, 196 U. S. 89, 25 Sup. Ct. 208, 49 L. Ed. 398; and the effect of such appearance is not enlarged by discussion of the merits in connection with the plea; Citizens Savings & Trust Co. v. R. Co., 205 U. S. 46, 27 Sup. Ct. 425, 51 L. Ed. 703;...."
BOUVIER'S LAW DICTIONARY
(1914) Third Revision
(being the Eighth Edition)
Reprint Edition 1984, Vol 1,
212-213

California recognizes "special appearance" (Judson v. Superior Court of Los Angeles County, 129 P.2d 361, 362; 21 Cal. 2d 11), and...Municipal Court proceeded without proving jurisdiction once it had been challenged (Burns v. Municipal Court, 195 Cal.

App.2d 599).

VIII. THERE WAS NO PRE-REQUISITE PERFECTION OF TITLE

33. There was no valid Perfection of Title prior to the Three-Day Notice to Quit, yet such Notice signed by PACIFIC's Attorney, an officer of the Court, specifies that "Title has been Duly Perfected". The record of...Municipal Court shows a document no. 83-549800 "RECORDED IN OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA -320 PM DEC 1 '83 /s/ Lee A Branch COUNTY RECORDER" transferring the property to PACIFIC: said document is dated and notarized on November 29, 1983, --- eight (8) days after the date of the Three-Day Notice to Quit. (Said document is also a fraud and a charade due to [Myer's] purchase at the Trustee's Sale.) [Myer] hereby declares and affirms that he inspected...Municipal

Court's file in this CASE NO. A 73032 several times from January 1984 and into September 1984, and he found said document as part of PACIFIC's APPLICATION FOR IMMEDIATE WRIT OF POSSESSION BY CLERK UNLAWFUL DETAINER dated and filed on August 24, 1984, when he inspected said file on September 14, 1984, and not before. Said document is prima facie evidence, both as to its face and as to its late filing, that there was no substance or jurisdiction to the Three-Day Notice to Quit and, without prior Perfection of Title, the Three-Day Notice to Quit is invalid, lacks any legal or lawful sufficiency and jurisdiction, and denies any causes of action in the summary proceedings of Unlawful Detainer since such Perfection of Title is a pre-requisite (CCP Sec. 1161a):

> "[O]ne who seeks the summary remedy of unlawful detainer allowed by the statute must bring himself clearly within its terms." Horton-Howard v. Payton (1919) 44 Cal.App. 108, 112; 186 P. 167.

The above proves, by the record, that the Three-Day Notice was a knowing fraud which, therefore, made the total Unlawful Detainer action a knowing, wilful fraud and abuse of Court process.

IX. THERE WAS NO VALID THREE-DAY NOTICE TO QUIT AND THERE WAS NO VALID SERVICE OF SAME

34. The Three-Day Notice to Quit was not served properly in accordance with CCP Sec. 1162: since there was no valid Three-Day Notice, none was served, thus the Summonses and Complaints lacked any legal or lawful sufficiency, any jurisdiction, and, therefore any causes of action. Also, the document purported to

be the 'Three-Day Notice' was not served on [Myer] and members of his household (who were later held in default on Court's own motion), on any 'tenant', or on any 'valid holdover', and there was no follow-up mail service (CCP §§ 1161a, 1162) prior to the...Municipal Court proceeding with assumed jurisdiction:

> "The failure to properly serve (three-day quit) notice on persons recognized as tenants in possession of the premises requires a judgment in their favor in the unlawful detainer action."
> Kwok v. Bergren, (1982) 130 Cal.App.3d 596, 600; 181 Cal.Rptr. 795.
>
> "Where an insufficient three-day notice is served, the complaint fails to state a cause of action.
> "Strict Compliance with the statutory provisions relating to the three-day notice to quit is a pre-requisite to seeking the summary remedy of unlawful detainer."
> Baugh v. Consumers Associates, Ltd. (1966) 241 Cal.App.2d 672, 675; 50 Cal.Rptr. 822.

X. THERE WERE NO VALID SUMMONSES AND COMPLAINTS AND INVALID SERVICES OF SAME

35. The SUMMONSES AND COMPLAINTS were want of legal and lawful sufficiency and jurisdiction due to the insuffiencies of the Three-Day Notice to Quit and, therefore, they failed to state any causes of action (Baugh v. Consumers, supra). The services of the documents purported to be valid SUMMONSES AND COMPLAINTS were insufficient as to proper personal service and/or follow-up service by mail (CCP §§ 1167, 415.10 and 415.20):

a. [Myer] hereby [re-]declares and [re-]affirms that they were not served on [Myer] and members of his household (who were later held in default on Court's own motion), on any 'tenant', or on any 'valid holdover', and that there was no follow-up mail service prior to...Municipal Court proceeding with

assumed jurisdiction.

b. [Myer] acknowledges that PACIFIC/Attorney filed, or caused to be filed, in...Municipal Court on August 24, 1984, a DECLARATION OF LINDA S. NUNEZ RE LOST OR MISPLACED ORIGINAL SUMMONS, APPLICATION TO USE COPY OF ORIGINAL SUMMONS IN PLACE OF ORIGINAL, ORDER THEREON, dated August 21, 1984, with the following attachments: SUMMONS; DECLARATION OF DENNIS SANCHEZ dated "January, 1984"; PROOF OF SERVICE on "LISA MYER" dated "1/20/84; PROOF OF SERVICE ON MRS. JEREMY MYER dated "1/20/84"; DECLARATION OF ATTEMPTED SERVICE on "JEREMY MEYER" of "S. HORVATH" dated "1-19-84"; and NON SERVICE RETURN of GARY F. SULLY dated January 19, 1984.

c. Consistent with all of the insufficiencies of PACIFIC's paperwork in this matter, Judicial Notice is to be

taken of the fact the items in sub-paragraph b, above, were placed in the record some eight (8) months after the...Municipal Court had again assumed jurisdiction, and after [Myer] had continually chalenged jurisdiction on the item of insufficient/invalid service of the SUMMONS AND COMPLAINT, among other challenges, both in the...Municipal Court and in the... Superior Court.

d. [Myer] re-declares and re-affirms hereby that his inspections of the records from January 1984 into September 1984 produced no such 'PROOFS OF SERVICE' and/or 'DECLARATIONS' previous to their August 24, 1984, filing date, that he and the members of his family never received any proper follow-up mail service, and that he obtained copies of said documents from the...Municipal Court on September 14, 1984.

e. Judicial Notice is to be taken of the fact that said documents were filed with the ORDER approved by the ..., Judge of the...Municipal Court, on a totally ex parte basis: that is, [Myer] declares and affirms that had no fore-knowledge of said documents, nor any chance to contest them at the time of their filing, and he never received copies of them by mail, at any address.

f. [Myer] believes that said documents were an attempt to correct the record, and [Myer] believes that such are fraudulent, and he hereby [re-]challenges them, accordingly.

XI. THERE WAS NO REQUIRED LANDLORD/TENANT RELATIONSHIP

36. There was no landlord/tenant re-lationship, and neither did PACIFIC plead any such relationship at any time. Thus, there was no legal or lawful basis upon

which the Unlawful Detainer could proceed or remain at bar, and this, and other items, remain uncontroverted: the purported COMPLAINTS themselves did not plead any fact or even purport to any landlord-tenant relationship existing between the parties or anyone found in default by the...Municipal Court on its own motions once it proceeded on assumed jurisdiction:

> "In an unlawful detainer action, the plaintiff must prove that a landlord/tenant relationship exists."
> Klein v. Loeffler (1929)
> 96 Cal.App. 383, 385;
> 274 P. 373.

> "A complaint in an unlawful detainer proceeding must plead the fact that a landlord-tenant relationship exists between the parties."
> Fredericksen v. McCosker
> (1956)
> 143 Cal.App.2d 114, 117-118;
> 299 P.2d 908.

> "...because of the summary nature of unlawful detainer, it has been held that the person seek-

> ing to avail himself of the u
> lawful detainer statute must
> bring himself clearly within
> terms of the relationships
> described in said statute.
> (Baugh v. Consumers Associate
> Ltd. (1966) 241 Cal.App.2d
> 672, 674, 50 Cal.Rptr. 822.)"
> [Supra] [Underlines substitut
> for italics.]
> Marvell, et al. v. Pizzeria
> (1984) 202 Cal.Rptr. 818, 82
> 155 Cal.App.3d Supp 1.

This recent 1984 case Marvell, supra, at page 823, also re-iterates the requirement for a pr Three-Day Notice to be served (proper and at page 825 cites the 1917 S Supreme Court case of Francis v. We Virginia Oil Co., 174 Cal. 168, 17 162 P. 394, as follows:

> "In order that such an [unlaw
> detainer] action may be main
> tained the conventional rela
> of landlord and tenant must
> shown to exist."

And, further, Marvell, supra, at page 824, analyzes the r

tionships of the parties in Goetz v. Hanks (1968) 261 Cal.App.2d 615, 68 Cal.Rptr. 150, and at page 825 notes that (in relation to Goetz):

> "...we are of the opinion that these factual differences do not require or allow a different legal analysis or conclusion."

[Myer] also asserts that he has pleaded substantively to the matters at bar such that his supportive case and other citations may have factual differences, but these also 'do not require or allow [for] a different legal analysis or conclusion'.

XII. NEITHER PETITIONER, NOR ANY MEMBERS OF HIS FAMILY, WERE IN DEFAULT AT ANY TIME

37. In addition, the records and files clearly show that there were no defaults by [Myer] or by any member of

his household since [Myer] has THE DU
and THE RIGHT (as unalienable) to act f
himself, for his spouse, and for h
household (CCP §§ 371 and 369, the Unit
States and State Constitutions, and t
Declaration of Independence of the Unit
States), and [Myer] acted and respond
accordingly.

XIII. PETITIONER AND HIS FAMILY WERE VEXATIOUSLY HARASSED BY PACIFIC WITH MULTIPLICITY OF SUIT

38. PACIFIC, in bringing and su
taining the obviously Unlawful Detain
action, in view of all of the above a
the proceedings and records and files
the Respondent Courts, has vexatious
harassed [Myer] with multiplicity
suit:

> "The controlling rule in th
> case, however, is that the pe
> dency of another action growi
> out of the same transaction...
> a ground for abatement of t

second action but never for abatement of the first. (Kirman v. Borzage (1949) 89 Cal. App.2d 898, 903 [150 P.2d 3]; Hagan v. Fairfield (1961) 194 Cal.App.2d 240, 246-247 [16 Cal.Rptr. 14].) The underlying theory of the plea of another action pending is that the first action will normally be an ample remedy, and the second action...is therefore unnecessary and vexatious. (Our italics.) (Williams v. State of California (1976) 62 Cal. App.3d 960, 964 [133 Cal. Rptr. 539]; Colvig v. RKO General, Inc. (1965) 232 Cal.App. 2d 56, 70 [42 Cal. Rptr. 473]; Wulfjen v. Dolton (1944) 24 Cal.2d 891 [151 P.2d 840].)" [Italics replaced with underlines.]
California Union Ins. Co. v. Trinity River Land Co. (1980) 105 Cal.App.3d 104, 108-109; 163 Cal.Rptr.802.

NOTE: PACIFIC used one law firm for the Unlawful Detainer, and another law firm for the related 'purchase' case.

"The rule which forbids a later action in the same state between the same parties involving that same subject matter rests upon principles of wisdom and justice, to prevent vexation, oppression and harassment, to prevent unnecessary litigation,

> to prevent a multiplicity
> suits,---in short, to pre
> two actions between the
> parties involving the same
> ject matter from procee
> independently of each other.
> Simmons v. Superior Court
> (1950) 96 Cal.App.2d 119, 12
> 125; 214 P.2d 844.

XIV. A WRIT OF MANDATE/PROHIBITION WAS IN ORDER AS A MATTER OF RIGHT AND OF LAW

39. A Writ of Mandate or Prohibi
should have issued from the...Supe
Court on [Myer's] Verified Petitio
have compelled the...Municipal Court
perform appropriately since the l
tribunal proceeded without or in ex
of jurisdiction, and since [Myer]
beneficially interested, had no pl
speedy, or adequate remedy in the o
nary course of the law (CCP §§ 1
1086, 1102, 1103).

> "The writ [of mandate] mus
> issued in all cases where t
> is not a plain, speedy,
> adequate remedy, in the ordi

course of law. It must be issued upon the verified petition of the party beneficially interested." (CCP § 1086).

"A Writ of Mandate is the appropriate remedy to direct the trial court to apply the proper law."
Hurtado v. Superior Court
(1974) 11 Cal.3d 574, 579;
114 Cal.Rptr.106; 522 P.2d 666.

"Petitioners have sought relief through either a writ of mandate or prohibition requesting the court to choose the more appropriate remedy. The case of Hays v. Superior Court (1940) 16 Cal.2d 260 [105 P.2d 975], provides that a writ of mandate lies in cases involving judicial discretion when that discretion has been abused. (State Farm etc. Ins. Co. v. Superior Court, 47 Cal.2d 428 [304 P. 2d 13], and Simmons v. Superior Court, 96 Cal. App.2d 119 [214 P.2d 844, 19 A.L.R.2d 288].) [Underlines substituted for italics.]
People v. Superior Court
(Ross) (1975)
49 Cal.App.3d 632, 641;
122 Cal.Rptr. 609.

And proceeding ex-jurisdiction by the...Municipal Court is abuse of discretion, and failure to correct same and/

or affirmation of ex-jurisdictional decisions by the other Respondents places them all in excess of and without jurisdiction since their jurisdiction is to proceed and decide in accordance with the law as a matter of law, as a matter of oath, as a matter of duty and, as to the parties, as a matter of right.

And: "...while the state does have a significant interest in preserving a speedy repossession remedy, that interest cannot justify the exclusion of matters which are essential to a just resolution of the question of possession at issue. As the Court of Appeals observed in Abstract Investment Co. v. Hutchinson (1962) 204 Cal.App. 2d 242, 249 [22 Cal.Rptr.309]: "Certainly the interest in preserving the summary nature of an action cannot out-weigh the interest of doing substantial justice. To hold the preservation of the summary proceeding of paramount importance would be analogous to the 'tail wagging the dog.'"" [Underlines substituted for italics.]

Green v. Superior Court (1974)
10 Cal.3d 616, 636;
111 Cal.Rptr. 704; 517 P.2d 1168

And [Myer] maintains and asserts that substantial justice cannot be done by usurping and overthrowing of the law.

XV. AN ORDER FOR ABATEMENT/STAY OF PROCEEDINGS WAS IN ORDER AS A MATTER OF RIGHT AND OF LAW

40. An Order for Abatement or, In the Alternative, Stay of the... Municipal Court Proceedings should have issued from the...Superior Court since the lower tribunal had no jurisdiction of the subject of the cause of action alleged, that there was another action pending between the parties on the same cause of action:

> "Pendency of another action constitutes valid ground for...a plea in abatement (Simmons v. Superior Court (1950) 96 Cal. App.2d 119 [214 P.2d 844, 19 A.L.R.2d 288])." [Underlines substituted for italics.]
> Kelly v. Trans Globe Travel Bureau Inc. (1976)
> 60 Cal.App. 3d 196, 206;
> 131 Cal.Rptr. 488.

"Where the rights of the parties to the second action cannot be properly determined until the questions raised in the first action are settled the second action should be stayed."
Simmons v. Superior Court
(1950) 96 Cal.App.2d 119, 130;
214 P.2d 844)

41. Respondent Courts were jurisdictionally in error in not preventing and stopping the Unlawful Detainer action against [Myer] since:

"It is well settled in California that the pendency of a prior action based upon the same cause, contested by the same parties and considered in the same jurisdiction, is ground for abatement of the second action. (1 Cal.Jur. 23, § 4; Code Civ. Proc., §§ 430, 433; Fresno Planing Mill Co. v. Manning, 20 Cal.App. 766, 769 [130 P. 196]; Mears v. Jeffry, 80 Cal.App.2d 610 [182 P.2d 294].) [Italics replaced with underlines.]
Hanrahan v. Superior Court
(1947) 81 Cal.App.2d 432, 435;
184 P.2d 157.

In the matter at bar, [Myer's] purchase at the Trustee's Sale is 'the same cause', and the parties are the same within the context of the rule since [Myer] is the Plaintiff/Appellant in the aforementioned related cases, and PACIFIC is one of the Defendants/Respondents.

XVI. A SETTLED STATEMENT WAS IN ORDER AS A MATTER OF RIGHT AND OF LAW

42. The...Municipal Court Judge was arbitrary and beyond his powers by refusing to settle [Myer's] PROPOSED SETTLED STATEMENT. Since [Myer] had prepared a STATEMENT which contained those portions of the oral proceedings which he deemed material to the determination of his points on appeal, even if said STATEMENT was deficient, the Court may not strike it out, but MUST proceed to settle it (Stevens v. Superior Court (1958) 160

Cal.App.2d 264, 268; 325 P.2d 204; Sweet v. Markwart (1953) 115 Cal.App. 2d 735, 742, 743; 252 P.2d 751).

43. Full and plenary power over the Settled Statement Record is reposed in the trial judge, subject only to the limitation that he does not act arbitrarily (Keller v. Superior Court (1950) 100 Cal.App.2d 231, 234; 223 P.2d 309).

44. The trial judge may not arbitrarily refuse to settle the Proposed Statement for use on appeal, unless there is some justifiable excuse (Sidebotham v. Superior Ct. In and For City and County of S. Francisco (1958) 326 P. 2d 890; 161 Cal.App.2d 624), and no justifiable excuse has been presented to [Myer]. (In fact, Respondents, for the most part, have been silent on the 'reasons' for their decisions, judgments, and orders.)

XVII. THE DOCTRINE OF 'STARE DECISIS' WAS IGNORED

45. [Myer] clearly established his position via substantive U.S. Supreme Court case citations, substantive State of California Supreme Court case citations, etc., as well as appropriate statutes and rules, that...Municipal Court was totally without jurisdiction to proceed and, therefore, that the decisions, judgments, and orders of the other Respondents which upheld and affirmed the lower tribunal's decisions, judgments, orders, and writ of execution, were without and/or in excess of jurisdiction.

46. In annulling a judgment of the Appellate Department of the Superior Court, the California Supreme Court said that:

> "[W]hether or not the Kroiss case was decided correctly, the appellate department of the superior court exceeded its

'jurisdiction,' as that term is used in connection with the writ of certiorari, in refusing to follow a rule established by a court of superior jurisdiction." [Underline substituted for itallics.]
Auto Equity Sales, Inc. v. Superior Court (1962)
57 Cal.2d 450, 454;
20 Cal. Rptr. 321; 369 P.2d 937.

47. [Myer] has clearly established 'stare decisis' in this PETITION, as well as in Respondents records and files of the subject matter. Also:

"Under the doctrine of stare decisis, all tribunals exercising inferior jurisdiction are required to follow decisions of courts exercising superior jurisdiction. Otherwise, the doctrine of stare decisis makes no sense. The decisions of this court are binding upon and must be followed by all the state courts of California. Decisions of every division of the District Court of Appeal are binding upon all the justice and municipal courts and upon all the superior courts of this state, and this is so whether or not the superior court is acting as a trial or appellate court. Courts exercising inferior jurisdiction must accept the law

declared by courts of superior jurisdiction. It is not their function to attempt to overrule decisions of a higher court." [Underlines substituted for italics.]
Auto Equity, supra, at page 455.

XVIII. A WRIT OF REVIEW (CERTIORARI) WAS IN ORDER FOR PROPER SUBSTANCE LAW AND PROCEDURAL BASIS

48. A WRIT OF REVIEW (CERTIORARI) was in order from the...Court of Appeal for proper substance law and procedural basis since Respondents were without and/or in excess of jurisdiction for multiple reasons as noted supra, and since [Myer] had no appeal avenue from the aforementioned orders, decisions, judgments, and writ of execution rendered by, and upheld by, Respondents (CCP § 904.1 (a) (3) and (4); CCP § 1068). [Myer], the party beneficially interested, submitted his verified PETITION FOR WRIT OF REVIEW (CCP

§ 1069).

49. Although holding that the Superior Court did not exceed its jurisdiction in affirming a judgment of conviction rendered by the Justice's Court, the State Supreme Court said that:

> "Since no further appeal lies from the judgment of the superior court, however, the writ of certiorari is available as a means of challenging the jurisdiction of that court." Portnoy v. Superior Court (1942) 20 Cal.2d 375, 377; 125 P.2d 487.

50. Although involving the Writ of Prohibition, it was well stated that:

> "Speaking generally, any acts which exceed the defined power of a court in any instance, whether that power be defined by constitutional provision, express statutory declaration, or rules developed by the courts and followed under the doctrine of stare decisis, are in excess of jurisdiction, in so far as that term is used to indicate that those acts may be restrained by prohibition or anulled on certiorari." [Underlines substituted for italics.]

Abelleira v. District Court of Appeal (1941)
17 Cal.2d 280, 291;
109 P.2d 942; 132 A.L.R. 715.

51. It was affirmed that:

> "Any act of a court which adversely affects the rights of a litigant and which exceeds the power of the court, as defined by the Constitution and the law of the state, is in excess of its jurisdiction and such act may be restrained or annulled on certiorari."
> Estate of Bodger (1954)
> 128 Cal.App.2d 710, 714;
> 276 P.2d 83,

52. Since the Respondent Courts have acted in excess of their jurisdictions in their original decisions and judgments, and in all decisions and judgments, and since the clear statutes and the superior jurisdictions were not followed in reaching their decisions and judgments (and were, in fact abrogated by Respondents), it is submitted that the Petition for Review (Certiorari) should have been

granted.

XIX. CONCLUSION AND PETITIONER'S PRAYER

53. Clearly, among the other issues, Respondents' decisions and judgments against [Myer] and members of his family were want of jurisdiction since there was no required prior Perfection of Title to support the Unlawful Detainer proceedings, as well as a multitude of other insufficiencies and improprieties, some of which are noted hereinabove, but all of which are clearly included in all of the court records and files of which judicial notice is to be taken in each of the above-noted/related cases.

54. [Myer] sought appropriate relief and reversals in the Respondent Courts all to no avail. Yet [Myer] clearly cited support for his position such as:

"It is elementary that public officers must obey the law."
Wirin v. Parker
48 Cal.2d 890; 313 P.2d 844,

and: "The United States Supreme Court has repeatedly asserted that all officers of the government from the highest to the lowest are creatures of the law and bound to obey it."
63 Am.Jur.2d, Sec. 277,

both as cited in 52 Cal.Jur.3d, Sec. 173.

55. The Supreme Court of California has affirmed that:

"Every one has a RIGHT TO DEMAND that he be governed by general rules; and a special statute that singles his case out as one to be regulated by a different law from that which is applied in all similar cases would not be legitimate legislation, but an ARBITRARY MANDATE, UNRECOGNIZED BY THE LAW." (Emphasis added.)
Ex parte Jentzsch (1896)
44 Pac.Rptr. 803, 805.

In addition:

"Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence

> of the government will be imperilled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal [and civil] law the end justifies the means...would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face." Olmstead v. United States, 277 U.S. 438, 485 (1928) (dissenting opinion)."
> Dissenting opinion of Justice Brandeis.
> Miranda v. Arizona, (1966) 384 U.S. 436, 479-480; 86 S.Ct. 1602; 16 L.Ed. 694.

56. Enforcement of decisions, orders, and judgments of the Respondents are causing [Myer] to suffer continual injury and harm in being denied quiet title and possession of the property he lawfully purchased at public auction.

WHEREFORE, Petitioner prays:

1. That a Writ of Review issue out of this Court to the...Municipal Court, ...Superior Court,...Appellate Department, and...Court of Appeal, commanding them to certify fully to this Court at a specified time and place all of the records and proceedings in the above-mentioned cause so that the same may be inquired into and determined by this Court, and that [Myer] receive notification when such complete records have been received by this Court for review;

2. That the aforementioned cause be fully heard and considered by this Court and that the decisions, orders, and judgments made by...Municipal Court,... Superior Court,...Appellate Department, and...Court of Appeal as documented hereinabove, be annulled and set aside, and that [Myer] be granted full and com-

plete relief from same;

3. That [Myer] be granted immediate restitution of the premises;

....

Dated: July 14, 1985.

Respectfully submitted,

Jeremy Myer
Petitioner, In Pro Per

VERIFICATION

I, JEREMY MYER, declare that I am the Petitioner in the above-entitled matter;....

Executed on July 14, 1985, at Anaheim, California.

I affirm that the foregoing is true and correct.

Jeremy Myer

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

JEREMY MYER, Petitioner, v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE, Respondent; PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	Civil Action No. G003059 PETITION FOR REVIEW AND BRIEF IN SUPPORT THEREOF [Cal Rules of Ct, Rules 28, 29] [The Law and Justice]

The Municipal Court CASE NO. A 73032

The Superior Court CASE NO. 42-14-46

The Appellate Department of the Superior Court CASE NO. AP-4726

The Court of Appeal, 4th App. Dist., Div. III CASE NO. G002742
CASE NO. G003059

The Supreme Court of the State of California CASE NO. LA 32084

TOPICAL INDEX OF CONTENTS

Section	Title
	TABLE OF AUTHORITIES
	PETITION FOR REVIEW
	BRIEF IN SUPPORT OF PETITION FOR REVIEW
I.	GROUNDS FOR PETITION AND FOR REVIEW
II.	SUMMARY STATEMENT OF PROCEEDINGS AND DECISIONS AND JUDGMENTS
III.	THE LOWER TRIBUNALS/ RESPONDENTS WERE WITHOUT AND/OR WERE IN EXCESS OF JURISDICTION
IV.	TITLE IS IN ISSUE AND TO BE FULLY ADJUDICATED: JURISDICTION WAS NOT IN THE MUNICIPAL COURT
V.	DOCTRINE OF LIS PENDENS APPLIED BUT WAS IGNORED
VI.	OWNERSHIP ISSUES INVOLVE ASSERTIONS OF FRAUD
VII.	PETITIONER APPEARED SPECIALLY IN MUNICIPAL COURT
VIII.	THERE WAS NO PRE-REQUISITE PERFECTION OF TITLE

IX. THERE WAS NO VALID THREE-DAY NOTICE TO QUIT AND THERE WAS NO VALID SERVICE OF SAME

X. THERE WERE NO VALID SUMMONSES AND COMPLAINTS AND INVALID SERVICES OF SAME

XI. THERE WAS NO REQUIRED LANDLORD/TENANT RELATIONSHIP

XII. NEITHER PETITIONER, NOR ANY MEMBERS OF HIS FAMILY, WERE IN DEFAULT AT ANY TIME

XIII. PETITIONER AND HIS FAMILY WERE VEXATIOUSLY HARASSED BY PACIFIC WITH MULTIPLICITY OF SUIT

XIV. A WRIT OF MANDATE/ PROHIBITION WAS IN ORDER AS A MATTER OF RIGHT AND OF LAW

XV. AN ORDER FOR ABATEMENT/ STAY OF PROCEEDINGS WAS IN ORDER AS A MATTER OF RIGHT AND OF LAW

XVI. A SETTLED STATEMENT WAS IN ORDER AS A MATTER OF RIGHT AND OF LAW

XVII. THE DOCTRINE OF 'STARE DECISIS' WAS IGNORED

XVIII. A WRIT OF REVIEW (CERTIORARI) WAS IN ORDER FOR PROPER SUBSTANCE LAW AND PROCEDURAL BASIS

XIX. ADDITIONAL REASONS TO REVERSE THE LOWER TRIBUNALS' DECISIONS AND JUDGMENTS

XX. CONCLUSION AND PETITIONER'S PRAYER

TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

[Myer] petitions this Court for a full and complete review of the proceedings, decisions, orders, and judgments of the Court of Appeal, Respondent Court, and the lower tribunals, including their respective files and records, in accordance with this PETITION FOR REVIEW AND BRIEF IN SUPPORT on the Court's own motion or, in the alternative, for the reasons and purposes as stated in the following BRIEF. All matters pleaded in the BRIEF have been pleaded in the Courts.

....

BRIEF IN SUPPORT OF PETITION FOR REVIEW

I. GROUNDS FOR PETITION AND FOR REVIEW

1. A review is necessary to secure uniformity of decision in that the proceedings, decisions, and judgments of the Respondent Courts supercede and overturn the United States Constitution, the California Constitution, the Business and Professions Code, American and California Jurisprudence, and substantive case law (as a minimum, all of which [Myer] has pleaded and supported with appropriate citations in the lower tribunals) as they relate to [Myer's] and his family's rights, jurisdiction, due process, and so forth, in the summary proceedings of this Unlawful Detainer action and its related appeals and proceedings (including: PETITION FOR WRIT OF MANDATE/PROHIBITION/ JUDICIAL REVIEW/JUSTICE; MOTION FOR ORDER

FOR ABATEMENT OF MUNICIPAL COURT PROCEEDINGS OR IN THE ALTERNATIVE STAY OF MUNICIPAL COURT PROCEEDINGS; and PURGATORY OATH AND DECLARATION OF...MYER FOR CLARIFICATION OF RECORD all in Respondent Superior Court CASE NO. 42-14-46) --- (Cal Rules of Ct, Rule 29(a)(1)).

2. A review is necessary to settle important questions of law in that the proceedings, decisions, and judgments of the lower Courts supercede and overturn the statutory requirements and provisions of the summary proceedings of Unlawful Detainer and its related appeals and proceedings including, but not limited to, the above items and the items as noted infra (Cal Rules of Ct, Rule 29(a)(1)).

3. A review is necessary to re-establish the doctrine of 'stare decisis' which the proceedings, decisions, and judgments of the lower Courts supercede

and overturn, and, then, such proceedings, decisions, and judgments (and the respective lower Courts) were without and/or were in excess of jurisdiction. (Cal Rules of Ct, Rule 29(a)(2).

4. A review is necessary to uphold the law and to support the necessity for 'stare decisis' by notifying the lower Courts that the violation of [Myer's]/ /family's RIGHTS were without and/or were in excess of jurisdiction. (Cal Rules of Ct, Rule 29(a)(1) and (2), and:

> "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."
> Miranda v. Arizona (1966) 384 U.S. 436, 491; 86 S.Ct. 1602; 16 L.Ed. 694.

II. SUMMARY
STATEMENT OF PROCEEDINGS
AND DECISIONS AND JUDGMENTS

....

[NOTE: To the U.S. Supreme Court:

Items 8 through 52 of the prior petition to the State Supreme Court substantially agree and, in most cases, almost identically agree in content to items 5 through 51 in this petition. Therefore, in the interest of space, they are not repeated here.

The below items 23, 24 and 52 are new.)

The respective items extracted from the prior petition as shown above apply here and are included herein by their reference as follows:

Prior petition above Items 23 through 26 are items 20 through 23, respectively;

Prior petition above Items 27 through 52 are items 26 through 51, respectively.]

24. On August 2, 1985, [the] SUPREME COURT OF THE STATE OF CALIFORNIA, IN BANK, transferred [Myer's] Petition

for Review (CASE L.A. No. 32084) "[back]" to the Court of Appeal.

25. On August 23, 1985, the Court of Appeal denied the "petition for a writ of review" "[again]" (CASE NO. G003059).

....

XIX. ADDITIONAL REASONS TO REVERSE THE LOWER TRIBUNALS' DECISIONS AND JUDGMENTS

52. As per the foregoing and the files and records in this matter, additional reasons as to why reversal of the results, judgments, and decisions which forced [Myer] and his household from the subject premises is required are as follows:

a. [Myer] and his household were deprived of property without due process of law and denied equal protection of the laws as provided for in the California Constitution, Article I, § 7(a), and the U. S. Constitution,

Amendments V and XIV, § 1. b. PACIFIC/ Attorney have been granted privileges and immunities beyond Constitutional provision and have been allowed to violate [Myer's] privileges or immunities in contradistinction to the California Constitution, Article I, § 7(b), and the U. S. Constitution, Amendment XIV, § 1.

c. Since there is the duty and obligation of contract of PACIFIC (and others) for which [Myer] is seeking appropriate relief via the aforementioned related cases, the Courts have contributed to the impairment of such duty and obligation. Further, such duties and obligations also pertain where [Myer] should be able to normally expect that THE LAW is to be followed by THE COURTS OF CALIFORNIA IN THE UNITED STATES OF AMERICA, including the procedures of the summary nature of the Unlawful Detainer

action. Such violations have clearly abrogated the California Constitution, Article I, § 9, and the U. S. Constitution, Article I, § 10, clause 1.

d. [Myer] and his family were deprived of their rights to be secure in their persons, houses, papers and effects as intended by the California Constitution, Article I, § 13, and the U. S. Constitution, Amendment IV, § 1.

e. Further, the oaths and judicial mandates as required by the following have been abrogated, violated, negated, and in all other ways made null and void:

California Constitution,
Article XX, § 3;
U. S. Constitution,
Article VI, clause 2;
Business and Professions
Code § 6067;
Cal. Jur., Vol. 7, 3rd Ed,
§ 45, ATTORNEYS AT LAW;
Am. Jur., Vol. 7, 2d Ed,
ATTORNEYS AT LAW,
§§ 2, 4, and 5.

f. Therefore, THE FACT AND THE LAW that:

> "The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land",
> California Constitution, Article III, § 1,

has also been abrogated and made null and void, as well as the Preambles to both the Constitution of the State of California and the Constitution of the United States.

[NOTE: To the U. S. Supreme Court:

> Items 53 through 56, as well as the 'prayer' of the prior petition to the State Supreme Court substantially agree and are almost identical in content to items 53 through 56 and the 'prayer' in this petition.
>
> Therefore, in the interest of space, they are not repeated here.
>
> Such respective items extracted from the prior petition as shown

above apply here and are included herein by their reference.]

Dated: September 2, 1985.

Respectfully submitted,

Jeremy Myer
Petitioner, In Pro Per

VERIFICATION

I, JEREMY MYER, declare that I am the Petitioner in the above-entitled matter;....

Executed on September 2, 1985,...

I affirm that the foregoing is true and correct.

Jeremy Myer